

**Legality of Obtaining Evidence of Corruption Crimes
(A Systematic Study to Deal with Special Investigative Methods)**

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Abstract:

The traditional methods of research and investigation are no longer sufficient and effective to confront corruption crimes, which necessitated the need to adopt modern procedures in line with the new criminal methods, especially in the field of corruption crimes in particular.

Hence the importance of this paper, through which we will shed light on the controls for the validity and legality of procedures for obtaining evidence learned from special investigative methods such as intercepting correspondence, recording voices, taking pictures, leakage or penetration, electronic monitoring, etc. Confronting this type of non-traditional evidence and the necessity of proposing appropriate amendments to strengthen and ensure the protection of the sanctity of private life and the preservation of human dignity also due to the serious desire to achieve an effective fight against corruption crimes, so thinking of modern methods in the field of controlling evidence of corruption crimes has become a foregone conclusion, especially since the data, facts and facts indicate the growing seriousness of these crimes and the diversity of methods of committing them, which has lost the traditional means of searching for evidence of corruption crimes. Such as investigation, inspection, inspection and immediate travel to the scene of the accident are practically sufficient. However, these modern means of investigating corruption crimes, seizing their evidence and presenting them to the courts in question have raised a problem in the extent of their legality, especially since some of them may affect some of the rights and freedoms stipulated in international covenants and local constitutions such as the right to privacy and the sanctity of private life, the matter

Which requires examining the legal basis for the texts regulating them in the substantive and formal criminal laws and in harmony with the international conventions ratified by Iraq, taking into account the guarantees of compatibility and balancing the interest of society in detecting corruption crimes and deterring the perpetrators with punishment on the one hand and observing human rights recognized locally and internationally under the umbrella of a fair judiciary on the other hand accordingly, we will discuss this issue according to the following demands:

The first requirement: an overview of corruption crimes

The second requirement: the traditional evidence in the detection of corruption crimes

The third requirement: special investigation methods for corruption crimes

Fourth requirement: Guarantees of legality of evidence obtained through special investigative methods

Then we ended the research with a conclusion that included a number of conclusions and recommendations, which we believe will contribute to enriching this topic

key words: Corruption crimes, special investigative techniques, controlled delivery, electronic monitoring, leakage, interception of correspondence, recording of voices, taking pictures

The first requirement

An overview of corruption crimes

Corruption is a language, known as a name derived from the verb fids, and it is an origin that indicates exit, for corruption is the departure of a thing from moderation, whether it is a little or a lot, and it is against righteousness and it is used in the soul, body and things that are out of integrity (1). Also it was said in its idiomatic meaning a lot, every act or activity that encloses a deviation within the general or mixed government administrative apparatus, the private sector or civil society, whether it is individual or collective, that would harm public or private interests is considered corruption, in other words it is every behavior attributed to an employee. It is considered a violation of the functional and ethical standards to achieve special goals and objectives (2).

Corruption in this sense can be considered as a breach of the duty of honesty imposed by the job, and employees obtain benefits and special gains through the exercise of their job directly or because of them. The Iraqi legislator has singled out a definition of corruption by saying that it is any criminal case that is being investigated for a crime that violates the duties of a public office, namely: bribery, embezzlement, and employees exceeding the limits of their jobs, and any of the crimes stipulated in Articles 233, 271, 272, 275, 276, 290, 293 and 296 of the Law Penalties No. 111 of 1969 as amended, and any other crime in which one of the aggravating circumstances stipulated in Paragraphs 5, 6 and 7 of Article 135 of the Penal Code in force, as amended by Section 6 of the Organizational Law issued by the dissolved Governing Council attached to the dissolved Coalition Provisional Authority Order No. 55 of 2004, is available. The Iraqi legislator criminalized acts of administrative corruption in many texts, some of which were mentioned in the amended Penal Code No. 111 of 1969, while others were mentioned in special penal texts. The legislator listed some of these crimes in Chapter One, Two and Three of Chapter Six of Penal Code No. 111 of 1969. The rate, including the crimes included in Articles 307, Articles 322-341, Articles 315-321 and Articles 307-314, and Articles 315-321 included a group of crimes under the title of Sister Vegas and Associated Crimes. Articles 322-341 also included crimes related to employees overstepping the boundaries of their jobs. The first article of the Integrity Commission Law No. 30 of 2011 stipulates corruption crimes, which are: bribery, embezzlement, and employees exceeding the limits of their jobs, and any of the crimes stipulated in articles 233, 234, 271, 272, 275, 276, 290, 293, and 296 of The amended Penal Code No. 111 of 1969, and any other crime in which one of the aggravating circumstances stipulated in paragraphs 5 and 6 of Article 135 of the Penal Code is present. 2019 to include an explicit text as in the

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crime of bribery in the private sector and bribery of foreign public officials and employees of international institutions, as a response to what was required by the United Nations Convention against Corruption that each state party consider adopting the legislative and other measures that may be necessary to criminalize the presence of a foreign public official or an employee of an international organization. (3).

The second requirement

Traditional methods of detecting corruption crimes

The principle is that the criminal case goes through two stages, after its initiation, which is the stage of the preliminary investigation carried out by the investigative judge and the stage of the judicial investigation carried out by the trial court judge when he issues a decision in the case, through which the competent judiciary aims to reveal the truth, but these two stages may be preceded by an important stage. It is represented in the stage of research and investigation in which members of the judicial police collect information and evidence about crimes, or what is known as the stage of the emergence of criminal litigation, so the work of judicial control must be carried out in accordance with the legal framework in order to preserve the rights and freedoms of individuals despite the suspicion that often occurs their involvement in committing the offense in implementation of the principle of presumption of innocence, which is a constitutional and legal right. We will briefly address the most important traditional methods for detecting corruption crimes as follows:

Section One: Receiving news and complaints

The legislator obliged the judicial police officer to receive all reports and complaints received from members of the public or the public authority. It may be published in newspapers or any other means of publication allowing each judicial officer to address and investigate any published information by reporting it except on the basis of an order issued by his superiors. It may be verbal or by telephone and the notification may be from a known person or an unknown person. As for the complaint, it is an expression presented by the person who was harmed by the crime, and most often it is from the person against whom the crime occurred with a desire to initiate and file the criminal case, whether the accused is known or unknown. The criminal complaint is that the complaint in which the complainant does not claim civil rights is a form of information, and accordingly, the judicial officer who receives the communication must prove all the procedures he takes in minutes signed by them, in which he shows the time and place of taking the action, and those minutes must include the minutes The witnesses and experts who were heard must also sign, and the minutes are sent to the investigating judge or the public prosecutor when the judge is not present with the seized items. This is what is stipulated in the Code of Criminal Procedure in Article

The duties entrusted to the judicial police center on the following: receiving reports and complaints, moving and criminal proof, conducting investigations into crimes, seizing objects and people, hearing their statements, first aiding, and seeking the assistance of experts (4).

Section Two: Gathering Evidence

The purpose of collecting evidence is to establish the following matters: Determining the time and place of committing the crime: Proving the occurrence of the criminal act: Benefiting from the results of the crime scene examination: Proving the information and results that have been reached: Arresting the perpetrator or accomplices in the crime Inferring the witnesses of the incident and identifying the offender and his accomplices: a statement of the cause of the crime and the motive for its commission. Proving the criminal intent of the crime

Section Three: Previewing

Inspection means that the members of the judicial police, under the supervision and direction of the investigating judge, move to the place where the crime occurred and inspect it in order to search for its traces and take every appropriate measure to preserve it from disappearing, such as seizing all the tools that were used in it, in addition to seizing the things related to it, keeping it and guarding it if necessary. matter. The inspection includes a thorough examination of the material of the crime, which includes the crime body, the suspected person, or the place of its occurrence, and formally proving that. His conduct of the inspection resorted to several means such as the use of police dogs, recording and photographic devices, the lifting of fingerprints, and the conduct of laboratory tests. (5)

Section Four: Hearing People

The member of the judicial police and the person conducting the investigation may resort to the method of hearing people such as witnesses and everyone who has a relationship, connection or information about the crime or its perpetrators. It is a type of testimony, and this procedure includes the proof or denial of a specific fact by the one who perceives it through one of his senses, directly or indirectly. (6)

Section Five: Editing of records

The Iraqi Code of Criminal Procedure in force No. 23 of 1971, as amended, states that a member of the judicial police must write a report on the investigation and inference work that he has accomplished and send the original report, documents and things that he seized when examining the crime scene to the competent investigative judge, and the record is a document an official document accomplished by members of the judicial police, in which he records the work he has accomplished within the framework of performing his usual duties or in the framework of implementing orders received by the investigating judge and the public prosecutor, or requests and orders of the judicial authorities to which he belongs. (7)

In order for the report to be valid, productive and reliable, it must include a number of the following conditions, including, that the report is issued by a competent authority, and that it includes the name, description, and data of the entity to which it belongs, the date of its issuance and in the official language, and that the report includes the full identity of the accused or the suspect and the initial qualification of the crime and the legal article applicable to the criminal act and the signatures of its editors or the signature or thumbprint of the persons who are the subject of the document. It may be revoked with evidence equivalent in terms of strength, including its absolute authenticity, unless it is challenged by forgery.(8)

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Section Six: The case of a red-handed crime

The act of *flagrante delicto* is a conclusive presumption that the crime has occurred, and it is among the exceptional cases in which the law authorizes a member of the judicial police to exercise some of the powers and powers of the investigative judge only, and the reason for this is the need for rapid intervention for fear of losing or obliterating evidence. It is noted that the Iraqi legislator did not specify any meaning or a concept of the crime in *flagrante delicto*, rather it sufficed with limiting its cases by witnessing the crime when it was committed, watching the crime after it was committed, following up on the suspect after the crime occurred, discovering or finding weapons or things in the suspect's possession, or the presence of traces or indications that lead to the belief that he is the perpetrator or accomplice in it, as stated in the text. In the first article of the Code of Criminal Procedure No. 23 of 1971. (9).

The seventh section: the method of physical control

Physical surveillance is one of the oldest methods used in medieval societies by leaders and leaders in order to secure their people, consolidate their positions and extend their authority. Peoples knew the old system of monitoring and collecting information about enemies in periods of peace and war. Rulers used surveillance to collect information by various means and use it as a weapon to seek to Gathering information and investigations about the activities of their enemies using the method of surveillance to maintain their positions and to strengthen their position in dominating their people. The use of this method extended to the detection of crimes and their perpetrators, as it relied on informants or the secret police, which was tracking the movements of suspects with the intention of collecting sufficient evidence to trap them, which is what is termed He has to do this with ordinary traditional surveillance or police surveillance because this type of surveillance depends on noticing a material target and tracking it using mainly the human element without the use of electronic media. (10)

Physical surveillance is nothing but a field operation aimed at obtaining information about specific crimes with the aim of preventing them or discovering their perpetrators. In other words, it is placing a person, group of persons, or means of transportation under secret and periodic surveillance with the aim of obtaining information related to the suspect, his money, or the activity he is doing. The method of regular surveillance includes the observation of people and things directly through observation and according to the normal methods of monitoring the movement of people and the destination of things related to the crime through the senses of the observer. The Iraqi Code of Criminal Procedure did not define the method of physical surveillance, but there is no objection to accepting this method with persons Those against whom there are possible or acceptable suspicions of suspecting in committing or attempting to commit a serious crime, or transferring items or funds obtained from committing these crimes, or of the tools, means, or other used in their commission, with recording what has been reached in minutes that are referred to in all the stages of the criminal case, acting carefully and professionally throughout the investigation

process at the crime scene is a crucial element in accepting evidence for judicial purposes. (11)

Accordingly, we can say that surveillance as a method of investigation is in one of two forms. The first is related to persons and includes those suspected of committing felonies or misdemeanors by placing them under constant observation, monitoring their movements, observing the places they frequent and their lifestyles, so that the observers know the smallest details of their plans and criminal intentions. As for the second picture, it is concerned with monitoring the objects or luggage and money subject of the crime, as this method allows to discover the source and destination of the funds across the entire Iraqi national territory to ensure the maximum limits of effectiveness in combating serious crimes, especially corruption crimes, including financial inquiry about the entry and exit of funds from banks to identify the sources. The real value of that money, especially after modern criminality relied on very advanced techniques and means in order to hide the sources of funding for its criminal projects and the financial proceeds derived from them. (12)

The third requirement

special investigative techniques

The scientific and technological development that most countries of the world have known has led to the emergence of a new type of crimes described as serious, which is distinguished from traditional crimes in the ways in which they are committed and the goals they aim at. At the expense of the growth and prosperity of the economies of countries and their security and economic stability.

The seriousness of these crimes becomes clear in view of the characteristics of their smart and resourceful perpetrators, which makes it easier for them to hide their criminal acts and obliterate their traces, which makes the process of discovering them, arresting them and bringing them to justice, with strong evidence of their conviction, difficult for the competent authorities to combat them using traditional or classical methods. For research and investigation, as most countries of the world realized that combating this type of crime requires adopting new policies based on the development of modern institutional and legal means that are also in line with the development taking place in the world of crime.

It is no longer possible to rely on the traditional methods of research and investigation used by the law enforcement agencies, which have proven in practice incapable of combating modern forms of crime. Indeed, this new trend has been enshrined on the ground through the conclusion of many agreements within the framework of the United Nations and regional organizations including the countries of the world. Combating and preventing modern forms of crime, we mention the United Nations Convention on Combating Transnational Organized Crime and its two protocols, which were adopted by the United Nations General Assembly in 2000 and to which Iraq acceded under Law No. 20 of 2007. (13)

And the United Nations Convention against Corruption adopted in 2003, ratified by Iraq under Law No. 35 of 2007, as well as accession to the Arab Convention against Corruption held within the framework of the League of Arab States in 2010, which

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Iraq ratified under Law No. 94 of 2012 and the law ratifying the Arab Convention against Cross-Border Organized Crime National No. 99 of 2012. (14)

In fact, Iraq's accession or ratification of these conventions dictates the necessity of making some amendments to its legal system and developing mechanisms or procedural measures in order to combat this type of crime related to combating financial corruption, subject to the limits of its capabilities to allow the appropriate use of special investigative procedures under the supervision of the judiciary, including: This is the method of controlled delivery, electronic monitoring, covert operations by the competent authorities, penetration, interception of calls and correspondence, recording of voices, video conversations and taking pictures for the purpose of combating organized crime effectively.

In light of this, there is an urgent need - more than ever - to amend some procedural rules in the Code of Criminal Procedure No. 23 of 1971 to be in line with the new patterns of corruption crimes and to ensure conformity of the provisions of this law with the provisions of international charters and agreements ratified by Iraq, which provide better protection rights and freedoms and strengthen the principle of the presumption of innocence in addition to ensuring the effectiveness and speed of the role of the public prosecutor, investigative judges, courts and law enforcement agencies in view of the infinite gravity of these crimes and their abort in their infancy. Especially since the provisions related to the use of special investigative methods are today more acceptable within the general legal understanding, and they represent a realistic response to combating corruption crimes, which have developed from their methods and the skills of their perpetrators, so that the traditional methods of investigating them and collecting their evidence are useless, and we can present the most important models for special investigative methods as shown in the following sections:

Section one: controlled delivery

After the traditional methods failed to control and investigate the evidence of transnational organized crimes such as drug and psychotropic drug trafficking, arms trafficking, human trafficking and money laundering, as well as evidence of corruption crimes - the subject of the research - which became of an international character thanks to the participation of criminals of different nationalities, until the United Nations Convention the United Nations for Combating Illicit Traffic in Narcotics and Psychotropic Substances for the year 1988, which approved the use of the controlled delivery method in combating the crime of smuggling and drug trafficking and the crimes arising from it, which it defined in Article 1 / g of it, as (the method of allowing illegal shipments of narcotics or psychotropic substances or The substances listed in the First and Second Schedules attached to this Convention or the substances that have replaced them by continuing their way outside the territory of one or more countries or through or into them with the knowledge and control of its competent authorities in order to discover the identity of the persons involved in committing crimes..), then followed by many conventions International and regional, most notably the United Nations Convention against Transnational Organized Crime

(Palermo) of 2000 and the United Nations Convention A challenge to combat corruption for the year 2003 and the Arab Convention to Combat Illicit Traffic in Narcotic Drugs and Psychotropic Substances for the year 1994. The use of the controlled delivery method was stipulated in the law ratifying the Iraqi-Syrian agreement in the field of customs cooperation No. 8 of 2011, as defined in Article (1/9) By saying that it (means the method of allowing trucks of illegal or suspicious narcotic drugs and psychotropic substances to pass out, into or through the territory of one or more countries with the knowledge and under the supervision of the competent authorities with the aim of identifying the persons involved in committing customs violations), This method was introduced in the Narcotics and Psychotropic Substances Law No. 50 of 2017 in implementation of the relevant international agreements ratified by it, where Article (1/15) of the aforementioned law defines controlled delivery as (allowing the passage of illegal or suspicious shipments of drugs or psychotropic substances). mental or chemical precursors through the territory of the state to another state with the knowledge of its competent authorities and under their control with the aim of identifying the final destination of this shipment and transporting Reporting the crime, revealing the identity of its perpetrators and the persons involved, and stopping them. (15)

The controlled delivery method is divided into two types as follows.

First: National Controlled Delivery: It means that the monitoring of the illegal shipments is entirely within the territory of one country, as the crime is committed in the territory of the state, whether land, sea or air, with the aim of detecting smuggled materials, identifying the persons responsible for the delivery process, and collecting and investigating any information. It can be sent to the country of origin in order to overthrow the perpetrators and seize the shipment, and this is after certain information reaches the knowledge of the competent national authorities. Instead of seizing the smuggled materials as soon as they are discovered, they are allowed to continue the shipment to the end point through secret tracking of the shipment within the borders of the state, which allows the overthrow with the largest number of gang members instead of controlling the shipment alone.

Second: International Controlled Delivery: This method means that the crime is committed in a country while the destination of the shipment is a second country, passing through one or several other countries. Proceeds from the proceeds of corruption crimes, for example, from country (A) to country (D), passing through countries (B) and (C). Coordination is made between the authorities of these countries within the framework of mutual international cooperation in order to implement the controlled delivery procedure, by allowing the illegal shipment by passing without being seized from the country of origin to the country of destination through the transit country under the secret surveillance of the authorities of the countries coordinating the operation, which allows the identification of network members in these countries and their arrest.

In order to ensure the success of the controlled delivery process in its international aspect, a set of controls should be guided, including, for example, the need to provide an adequate study of the shipment's path in order to control the process of control,

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coordination and permanent communication between the authorities of countries (source, transit and destination) with defining the control authority and the authority of Decision-making, in addition to implementing the monitoring plan with great flexibility to allow immediate intervention when the shipment's path changes or when any information is received that requires a change in the plans and strategies prepared for the purposes of the success of the monitoring process. Despite the importance of this method in combating organized crime, there are a number of obstacles that hinder its application, the most prominent of which is the lack of permission to use the method of controlled delivery in the legislation of many countries and the absence of an international consensus on the necessity of joining the relevant international or regional agreements that obligate member states. By adopting the controlled delivery method in its internal legislation and the existence of a quantitative and qualitative discrepancy in the penalties prescribed for crimes that use controlled delivery as a method in revealing or combating its evidence, the high costs of its use and the associated monitoring of special budgets, the provision of advanced equipment, training and qualification of members of the judiciary and law enforcement elements in terms of equipment with sufficient equipment and the number required to implement such a method, as well as the absence of political understandings or good-neighbourly relations between countries through which money, baggage or persons are transferred, which casts a shadow over the difficulty of its implementation.

Second branch

Electronic monitoring, interception of correspondence, recording of sounds and taking pictures

As a result of the professionalism of the perpetrators of financial corruption crimes with skills that facilitated them with means of communication and modern technologies, so that they achieve their criminal aims in sophisticated and modern ways that are often difficult for the law to keep pace with. The powers of the judiciary and the public prosecution in order to carry out some operations such as electronic surveillance, intercepting correspondence, recording voices and taking pictures, which are methods imposed by the data of modern sciences in the field of information technology and communication technology. The topic can be presented briefly as follows:-

First: Electronic monitoring or electronic surveillance:

The use of electronic surveillance, or what is known as electronic surveillance by surveillance cameras via television circuits, has led to the possibility of benefiting from it in detecting crimes and tracking their perpetrators by providing the feature of retrieval of events, dates and recorded scenes, and this procedure is one of the procedures followed to prevent crimes described as dangerous crimes such as Crimes affecting public security or public funds or that affect the economy of the state or its institutions, and there is no doubt that the evidence derived from the surveillance devices is one of the most intrusive evidence in private life, so this evidence is not acceptable in evidence unless it is obtained within the framework of the provisions of the law and respect for the values of Justice and legality and in accordance with the

rights of the accused in the defense, so part of the jurisprudence and the judiciary goes to say that the legality of the monitoring procedure is conditional on it being free from the use of tricks and deceptive methods, given that these means conflict on the one hand with the principle of integrity in the search for evidence (16)

Second: Interception of correspondence and telephone communications:

Correspondence means conveying news by any available means, including written messages, sent by mail or by a special messenger. Incoming and outgoing electronic mail box messages to and from suspects or their fixed or mobile phones, and interception also includes transmissions and transmissions of electromagnetic waves emitted by computers and the data they carry, as long as it is clear from the sender's intention that he did not intend to inform others without discrimination. (17)

It should be noted that most constitutions, and then laws, organized to guarantee the right to correspondence and to ensure its confidentiality among citizens. However, this right is not absolute, but rather the legislator can set restrictions and measures appropriate to the manner in which this right is used for legitimate justifications required to protect the security and safety of society from crimes. So that if the necessity of investigating or investigating serious crimes such as corruption crimes and revealing their evidence or facilitating the arrest of their perpetrators requires an interception of correspondence that takes place through wired or wireless means of communication based on an order issued by the judicial authorities, then the interception process that involves a number of procedures such as wiretapping is permitted. Recording, copying, storing and retrieval of information and accessing the content of conversations or messages directed to others during their delivery. This requires the presence of a sending and receiving party secretly and without the knowledge of the concerned parties, and all of this is within the framework of research, investigation and gathering evidence about the crime and the persons suspected of committing it, whether they are original perpetrators or accomplices.

Third: Recording sounds and taking pictures:

Where the traditional method of investigating and collecting evidence about the crime in question is not useful in revealing its evidence and its perpetrators, there is an urgent need to resort to special methods. It is carried out by suspicious persons in private or public stores by copying the sound waves from their original sources on (CD, USB stick or CART MEMORY memory card) or in an audio file format (AUDIO, MP3 or WMA).

The process of recording voices and taking pictures is done by making technical arrangements without the consent of those subject to them by allowing members of the judiciary to break into the personal space of the suspects and to take photographs using highly accurate devices that can be implanted anywhere that allows the transmission of audio and video around the clock with the ability to analyze the information received It is written in official records that can be relied upon in preparation for taking it as evidence of crimes and attributing them to the perpetrators before the competent courts.

In view of the seriousness of these operations and the apprehension and legal, judicial and jurisprudential controversy they have raised, and the questioning of the credibility

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of obtaining legal evidence from the technical and ethical aspects, the legislators have surrounded these operations with a set of objective and formal guarantees in line with the constitutionally guaranteed rights, including the sanctity of life. The private interests of individuals, their correspondences and communications, and finding a kind of balance between the public and individual interests, noting that the public interest prevails over the private or individual interest, in addition to the extreme necessity that justifies resorting to this procedure under the supervision of the judiciary in the field of crime prevention and control (18).

Third branch

Leakage or penetration

Leakage is one of the special methods of research and investigation of crimes that have been described as serious and identified by international conventions that deal with transnational organized crimes and corruption crimes. In perpetrating corruption crimes, that he is their doer, partner, assistant, or any other meaning that helps them in any way. Hence, the leakage or penetration in this sense is nothing but a special operation or a means of special investigation to search for evidence of the crime, according to which the source (a member of the judicial police or any other person after making the necessary security arrangements) is allowed to penetrate to a criminal group planning to commit a crime Financial and administrative corruption concealing its true identity with the aim of detecting their criminal activities and monitoring their movements before or during their commission of crimes and at the same time indicating to them that he is an actor, partner or cooperator with them in what they intend to do of committing felonies or misdemeanors of corruption in order to catch them while they are red-handed, of course, this leakage, intrusion, or interference should not be considered an incitement to commit crimes.

The success of the infiltration or penetration process depends on the extent of the leaker's ability to gain confidence and deceive the target criminal group and make them believe that he is one of them, which requires him to be highly skilled and efficient in adapting, adapting and responding to the criminal milieu. For this reason, it was permitted for the dropout to interfere in the criminal activities of the targeted group as a doer, accomplice, or concealer. A set of actions, so he deliberately performs one of the constituent acts, meaning that his will is directed towards directing the execution of the crime, considering it his criminal project. (19)

As for the partner, he is the one who performs one of the actions that facilitate or facilitate the perpetrator in the execution of the crime, which often acquires its illegality through its relationship to the act committed by the perpetrator, as he is considered a partner in the crime according to the provisions of Iraqi law, whoever incites to commit it and it occurred based on this incitement and whoever agreed It occurred on the basis of this agreement, and whoever gave the perpetrator a weapon, machinery, or anything else that was used in the commission of the crime with his knowledge of it, or deliberately assisted him in any other way in the acts prepared, facilitating, or complementing its commission (20)

Accordingly, the participation of the dropout in the criminal activity incitement, agreement or assistance by providing shelter or refuge or by providing any form of support, aid or facilitation to one or more of the offenders is through his personal action and accompanied by members of the criminal group as a kind of accompanying the suspects in the investigation their criminal aims and deception until they are caught in flagrante delicto, which is a legitimate matter as long as it was not the intent of the leaker in the first place. Not to the point of incitement. (21)

The leaker can contribute to concealing the criminal proceeds obtained from corruption crimes or the means or tools used in committing them. Concealment or camouflaging means continuing to keep the property resulting from corruption crimes, whatever the method is primitive, traditional or modern and developed according to the nature of the concept indicated by the United Nations Convention against Corruption in Article 4 twenty of the aforementioned agreement.(22)

The issue of leakage or penetration is not important as it is one of the new and special means for investigating evidence of corruption crimes. Therefore, it was necessary to refer to the most important formal and objective controls necessary to ensure its legality, as well as the controls of judicial oversight on the validity of the procedures that will generate the evidence in question, according to the following:

First: - Formal and objective controls for the leakage process

Leakage is one of the most complex and dangerous methods, as it does not affect the right to privacy only, but also jeopardizes the safety of those who carry it out. Therefore, a set of formal and objective controls must be established that would ensure the legality of the evidence derived from it on the one hand and ensure the security of the leaker himself on the other hand.

1- Formal controls:

Perhaps it goes without saying, that there are a set of formal controls or rules that must be observed before initiating any leakage or penetration of criminal groups that engage in the commission of corruption crimes, including the need to obtain permission from a competent judicial authority, as the leakage process cannot be initiated unless a written permission is issued from one side. Written by a competent judicial authority, which means that the oral permission is not taken into account, and the permission must be justified, i.e. the obligations to grant the permission must be justified by estimating the legal and objective reasons that called for the operation and noting the type of crime that will be investigated or investigated, with the need to deposit a copy From the judicial permission to initiate the leak in the case file after the completion of the process and to preserve the full identity of the coordinating officer legally responsible for the process, which includes the name, capacity, rank and party to which he is officially affiliated, considering that his work mediates between the judge granting the permission and the observer of the process at the same time, where the judge provides the information collected by the leaker about members of the criminal group and conveys the judge's directions and orders to the leaker, as well as the necessity of indicating the time period authorized for conducting the leakage operation, taking into account Renew it when necessary in accordance with the

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procedures of search, investigation and investigation and in absolute confidentiality in order to preserve the security of the leaker.(23)

2- Objective controls:

By this we mean a set of justifications or circumstances that require the members of the judicial police to resort to taking permission in order to carry out the leakage process, taking into account the availability of the necessary and appropriate conditions. In the case of *flagrante delicto*, that is, when ordinary methods fail to detect crimes and attribute them to their perpetrators, such as drugs, transnational organized crime, money laundering crimes, terrorism and related crimes and corruption crimes, the latter will not hesitate to request permission to penetrate them as a matter of urgency.

As for the appropriateness, it means the availability of serious evidence and clues and strong indications that the suspects are preparing the ground for the commission of the crime (the place of the leakage process), leaving no room for doubt that it will occur or that it will occur soon, or that the members of the criminal group are going with their criminal project to the end.

The success of the leakage process depends on several factors, including maintaining the confidentiality and skill of the leaker and how to play the role entrusted to him in uncovering evidence of corruption crimes. Maneuvering to ensure that his matter is not exposed, which may endanger his life and the entire process of failure. For this reason, the leaker was allowed to use a false identity and coordinate with some of the subjugated persons responsible for following up the leakage process or carrying out some criminal acts in order to participate with the accused in order to gain their trust and obtain all their information, ways of contacting and meeting places in preparation for their detection and arrest in *flagrante delicto* and bringing them into the grip of justice. .

In order to ensure the safety and protection of the leaker during the leakage process or after the expiry of its period, or the order to arrest it before the end of its period, and the dangers that he may be exposed to as a result of that, personally or a member of his family, the legislation punished every attempt to reveal the real identity of the leaker and determine the aspects of exemption from criminal responsibility for him and the inadmissibility of hear his testimony in order to preserve his safety.(24)

Second: Judicial controls over the leakage process

The judiciary enjoys full discretion in issuing permission to initiate the leakage process or not to grant, because the leakage is in fact only a special type of operation, especially since penetration of some criminal formations or gangs requires the use of the most effective methods to detect them, which requires the leaker to quickly integrate with the criminal group subject of the leak. This makes it easier for the competent agencies to investigate and collect evidence, and then the judiciary process the evaluation process of the evidence that is being collected through the process of leakage or penetration, as the judge is empowered to assess the legitimacy of deciding on the leakage procedure and to ensure the availability of formal and objective

reasons and reasons for resorting to it and continuing or stopping it, as well as the circumstances in which it allows guaranteeing the safety and protection of the leaker before issuing the permission to start the leakage process. This means, as a matter of priority, estimating the value of evidence before the competent courts as a result of the evidence and presumptions discovered through leakage operations, which often lead to the arrest of the perpetrators in flagrante delicto, so that the judicial supervision of this process has the most effective effect in approving the results of the investigation and trial of judgments acquired the character of legality within the framework of the protection of rights and freedoms, or nullity, pursuant to legal texts, by existence, non-existence, and significance.

Fourth requirement

Estimating the legitimacy of obtaining evidence from special investigative methods Without a doubt, there is no doubt that there are guarantees of legal legitimacy in obtaining evidence obtained from special investigative methods or assessing their validity from a judicial point of view. Accordingly, we will present the subject according to the following two sections, as follows-:

First branch

Legality guarantees

In this section, we will try to address the discussion of these guarantees in international and local legislation according to the following:

First: International agreements: It dealt with international agreements related to combating corruption, in particular the United Nations Convention against Transnational Organized Crime of 2000 (25), the United Nations Convention against Corruption of 2003 and the Arab Convention against Corruption of 2012, which represented the legal basis guaranteeing the legitimacy of obtaining the resulting evidence Regarding special investigative methods, Article (8) of the United Nations Convention against Transnational Organized Crime (25) states that each state party shall adopt the necessary legislative and other measures to criminalize acts of corruption, while Article (9) of the same convention deals Under the aforementioned agreement, states may provide to each other the greatest possible amount of mutual legal assistance in investigations, procedures and prosecutions regarding anti-corruption measures. It relates to the crimes covered under the provisions of this agreement.

It is worth noting that Article (20) of the United Nations Convention against Transnational Organized Crime had dealt with special investigative methods, whereby it encouraged member states to take the necessary measures to allow the appropriate use of special investigative methods, within the limits of their capabilities and internal laws and subject to their legal principles. Including the method of controlled delivery, methods of intercepting goods or allowing them to continue to proceed safely, removing or replacing them in whole or in part, electronic monitoring, hidden operations and others by their competent authorities within their territory for the purpose of effectively combating crime, and according to the Convention, states parties should be encouraged to conclude bilateral arrangements or agreements or multiple, when necessary, that allow the use of special investigative methods in the

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context of international cooperation, provided that these agreements or arrangements take into account the principle of the equality of states in sovereignty to the understandings relating to the exercise of jurisdiction by States Parties.

As for the United Nations Convention against Corruption of 2003 (26), it also stated that states must take into account the prevention and elimination of corruption and that they must cooperate together with the support and participation of the public and private sectors, civil society organizations and non-governmental organizations in order to prevent and combat corruption . Article (50) of the aforementioned Convention specifically mentions special investigative methods, according to which it urges the states parties, to the extent permitted by their basic principles and internal law, and according to their available capabilities, to take the necessary measures to enable their competent authorities to use the method of controlled delivery, electronic surveillance, covert operations and other methods. Investigate whenever it deems appropriate within its territory, and the courts accept the evidence derived from these methods. For the purpose of investigating crimes, the aforementioned article expressly indicated the possibility of concluding bilateral or collective arrangements or agreements to use special investigative methods within the framework of international cooperation, and the provisions of these agreements or arrangements shall be taken into account. Necessity according to each case separately with the development of arrangements or understandings related to the financial cost and the exercise of jurisdiction by the States Parties.

With regard to what was mentioned in the 2010 Arab Anti-Corruption Convention(27), where Article 26 of the Convention, entitled Special Investigation Methods, indicated that in order to combat corruption effectively, each state party must, in accordance with its internal law and within the limits of its capabilities, take the necessary measures where appropriate. From following special investigative methods such as controlled delivery, which means allowing illegal or suspicious operations to leave the territory of one or more countries, pass through it, or enter it with knowledge through its concerned authorities and under their control, in order to investigate criminal acts of corruption in accordance with the provisions of this agreement and to reveal the identity of those involved in its commission, electronic surveillance and operations Confidentiality should be used appropriately within its territory and the courts' acceptance of the evidence resulting from those investigations. In order to use these methods in the context of international cooperation between the state parties, the agreement called on the states that are party to it to conclude bilateral or multilateral agreements or arrangements that serve as the legal basis on which to adopt these methods, provided that they fully comply with the principle of the equality of states in sovereignty. In the absence of such arrangements or agreements, decisions may be taken with respect to each case, taking into account the understandings relating to the exercise of the jurisdiction of the States concerned and with their consent.

Second: Internal legislation: Local legislation represents the legal basis for adopting special investigative methods that result in evidence of corruption crimes, and we will refer to them according to the following:

A- The Constitution: The Constitution is the highest legal document and it is the supreme and supreme law in the country. It should be noted that the Iraqi Constitution of 2005 had referred in more than one text to ensuring respect for the private life of individuals and prohibiting any humiliating or cruel treatment that degrades human dignity, as everyone has the right to personal privacy in a way that does not conflict with the rights of others, and that the sanctity of homes is preserved, and every individual has the right to fair treatment in judicial and administrative procedures, and that freedom of communication and correspondence, postal, telegraphic, telephone, electronic and others is guaranteed, and may not be monitored, eavesdropped, or disclosed except for a legal or security necessity and by a judicial decision. (28)

B - Code of Criminal Procedure: The second book of the Code of Criminal Procedure No. 23 of 1971, which is amended, entitled the investigation of crimes, the collection of evidence and the preliminary investigation, and the legal guarantees it provides for the parties to the criminal case, and the means for the accused to have the right to defend. (29)

It should be noted that the aforementioned Code of Criminal Procedure did not include an explicit reference to the use of special investigative methods in the field of evidence-gathering or criminal investigations, although this does not prevent from our point of view the fundamental application of these methods when surrounded by legal guarantees as long as the matter is ultimately up to the assessment of the trial court with regard to the evidence that the special investigations resulted in that can be relied upon in proving or denying corruption crimes, and in the light of Article 220/A of the Code of Criminal Procedure No. 23 of 1971, which considered evidence collection minutes, investigation minutes and other official records as elements of proof that It is subject to the discretion of the court in a way that allows the litigants in the criminal case to discuss it or prove the opposite of what is stated in it.

C- Law of the Integrity and Illicit Gain Commission No. 30 of 2011 amended by Law No. 30 of 2019 (30), where Article (12) of it indicated that the Federal Integrity Commission may use the means of scientific advancement and investigative and investigative devices and machines, collect evidence and summon the concerned for investigation in a manner Immediately after a decision is issued by the competent judge, and the head of the commission must provide the requirements and requirements for its use in the field of detecting corruption, preventing it, or prosecuting its perpetrators. It is clear from this that the Iraqi legislator, according to the amended Integrity Commission Law, did not object to using any of the special investigation methods to detect and investigate corruption crimes by adopting modern means and techniques in following up the perpetrators of corruption crimes in preparation for obtaining evidence through which they can be arrested and arrested, and then Confront them according to the law.

D- Legislation of accession and ratification of international and regional conventions: including the law of the accession of the Republic of Iraq to the United Nations

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Convention against Transnational Organized Crime and its two protocols No. 20 of 2007 (31). And the law of the accession of the Republic of Iraq to the United Nations Convention against Corruption No. 35 of 2007 (32) and the law of ratification of the Arab Anti-Corruption Convention No. 94 of 2012 (33) The special cases of financial and administrative corruption crimes. This requires the possibility of accepting the evidence obtained from the previously mentioned special investigative means, whether these crimes were committed within all or some of the Iraqi region, or I want the results of these crimes to be realized in it.

E - Electronic Signature and Electronic Transactions Law No. 78 of 2012 (34), where the legislator defined electronic documents and documents as documents and documents that are created, merged, stored, sent or received, in whole or in part, by electronic means, including electronic data exchange, e-mail, telegram, or Telex or telegraphic copies and bears an electronic signature, while Article 13 of the aforementioned law referred to the authenticity of these documents and ways to prove them, as it stipulated that electronic documents, electronic writing and electronic contracts have legal authenticity to their paper counterparts if they meet the following conditions:

A- The information contained therein should be achievable and stored so that it can be retrieved at any time.

B- The possibility of keeping it in the form in which it was created, sent or received in it in any form that facilitates the accuracy of the information contained in it when it was created, sent or received in a way that does not accept modification, addition or deletion.

C - that the information contained therein is indicative of the originator or recipient of it, and the date and time of sending and receiving it.

In all cases, the website or the addressee may prove the authenticity of the electronic document by all other means of proof.

As far as the subject of the research is concerned, electronic documents or documents are one of the new technical methods in proving legal actions and all other actions resulting from them as far as they relate to corruption crimes. It should be noted that Iraq had ratified an agreement regulating electronic signature provisions in the field of electronic transactions in the Arab countries, believing in keeping pace with developments in the field of digitization, informatics and modern technology, according to Law No. 101 of 2012. (35)

F - Law of Public Prosecution No. 49 of 2017, whereby the Public Prosecution was authorized to file lawsuits for the public right and cases of financial and administrative corruption and to follow up on them based on the amended Code of Criminal Procedure No. 23 of 1971. The Department of the Administrative and Financial Prosecutor and Public Funds Issues has also been established in accordance with Article (fifth / thirteenth) of the aforementioned Public Prosecution Law, which stipulates that a department shall be established in the Presidency of Public Prosecution called the Department of the Administrative and Financial Prosecutor and Public Funds Issues to be administered by a Public Prosecutor not less than His

service is for (15) years, supervising the offices of the financial and administrative public prosecution in the state departments, while the fourteenth paragraph of the fifth article indicated that an office for the financial and administrative public prosecution should be established in the ministries and independent bodies to exercise its competence in monitoring investigations into crimes, gathering evidence and taking all the necessary actions. It would lead to uncovering the features of the crime and investigating crimes of financial and administrative corruption and all crimes that violate the duties of the public office stipulated in the amended Penal Code No. 111 of 1969 and in accordance with the provisions of the amended Code of Criminal Procedure No. 23 of 1971 and the complementary penal laws, provided that the case is referred within 24 hours from the date of arrest of the accused to the competent investigative judge. (36)

Second branch

Judicial suitability guarantees

Since the principle of the criminal judge's freedom of conviction is prevalent in contemporary legislation, and it is the principle applied mainly in Iraqi legislation by granting the criminal judge a positive role in accepting and evaluating evidence in accordance with what is required by reason and common sense. Since the special investigative methods, as one of the modern means, are characterized by their persuasive power to the criminal judge in the areas of proof and denial of criminal responsibility and without judgment or tyranny, the judge must, when forming his conviction of evidence based on special investigation methods for corruption crimes, take into account the following conditions:

First: That the evidence be presented at the session: The Iraqi legislator took the principle of freedom of conviction in accordance with Article 213 of the Code of Criminal Procedure, which indicated that the court judges based on its personal conviction that it has from the evidence presented in any role of the investigation or trial, i.e. In the sense that the criminal judge has an absolute authority to assess the evidence according to his personal conviction, provided that he bases his decision on justifications and justifications derived from the evidence presented to him and derived from those that have an origin in the case file in any of the investigation or trial sessions. This condition prevents the judge from ruling based on his information The personality obtained from outside the Judicial Council, rather he is obligated to obtain his conviction of what took place in the preliminary or judicial investigations, or both, and the judicial reality indicates that what is obtained from evidence resulting from the adoption of special investigative methods in corruption cases is a fertile field for extracting evidence and discussing it in the session.

Second: The evidence must be legitimate: The criminal courts, while dealing with corruption and other crimes, must base their rulings on legitimate evidence, that is, those that have been investigated, collected and investigated in a legal way. For example, the criminal judiciary may rely on evidence derived from a procedure for controlled delivery, electronic surveillance, interception of a correspondence, recording of a voice call, taking pictures, leakage, or hacking, unless such procedures were taken on the basis of conditions that are fully consistent with the correct law,

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otherwise the procedures shall be considered null and void. It can not be relied upon and invalidates any evidence derived from it.

Third: That the evidence be palatable: the palatability of the evidence means not clashing with the requirements of reason and logic. The accused of the crime, i.e. that the judge's conclusion conforms to the reality of the incident, is not likely based on intuition mixed with the whims of the soul and other influences, but rather follows rules similar to arithmetic mental operations, so it is the safe haven from which he removed the suspicion of hesitation in revealing the evidence consistent with the requirements of reason and logic Accordingly, the judgments issued by the criminal judge in convicting must be based on certainty and certainty and not on doubt and guesswork, and hence the importance of evidence that is based on special investigative methods under the rule of necessity and mental necessity in what is definitive and the rejection of presumptive arguments in specific places and conditions.

Perhaps it goes without saying that the judiciary remains the last resort to ensure judging the legality of the evidence derived from the special research and investigation methods used to detect organized crimes and corruption crimes in their traditional and new forms, whose activities have become characterized by professionalism, planning, cross-border organization and secrecy, and the invention of unusual criminal methods in the light of globalization. Technology and ease of communication and transportation, which has become difficult to detect through traditional means of research, investigation and collection of evidence, which imposed this reality on law enforcement agencies, authorities concerned with prosecution and judicial authorities in particular, from seeking to develop special methods to investigate this type of crime and lure its perpetrators in preparation for arrest they are in flagrante delicto and confronting them with sufficient evidence to convict. This, of course, will only be done through harmonizing the requirements of national legislation with the provisions of international and regional conventions to which they have been acceded or whose provisions have been ratified.

Conclusion

Corruption has become a real threat to the security and stability of countries and peoples because of the massive damage it leaves behind at all levels, in addition to the complexity of this type of crime, which makes the task of combating it difficult by using the familiar traditional means of research and investigation that the judicial police relied on in order to discovering crimes and attributing them to their perpetrators, and since the effective combating of corruption crimes requires the creation of an effective objective and procedural legal framework, this requires a review of the traditional criminal policy to confront this type of rampant crime, and without the modern means and methods of investigation compromising the rights and freedoms of individuals and therefore it is necessary to control Its procedures are in order to avoid any legal breach under the umbrella of non-objection to ensure legality

by documenting what is happening in official records and with the approval, control and supervision of the judiciary.

Accordingly, states today have recognized the need to adopt modern methods of combating corruption crimes in the areas of security, legal and judicial cooperation, in accordance with the common ground provided by international and regional agreements for understanding by using the legal and procedural mechanisms contained therein in combating this type of crime in the context of mutual respect, equality in sovereignty and the application of the principle of Good faith in the implementation of its international obligations. There is no doubt that Iraq, within the framework of its international obligations in the field of combating corruption crimes, has undoubtedly reconsidered many provisions of the substantive and procedural laws related to combating this type of crime, and it is still called to introduce many necessary legal amendments and put them into practice regarding the use of tools Or special investigation methods for corruption crimes. Based on the foregoing dealt with in this research, we present the most important conclusions, which are as follows- :

- 1- The reliance of modern crime, especially the newly created corruption crimes, on the method of planning and systematic management based on exploiting the fruits of scientific and technological development has doubled its danger and is no longer bound by the geographical boundaries in which it was committed and transcending the principle of regionalism prevailing in laws, which necessitated preparation for the development of legal and human capabilities at the level National and international, while recognizing the difficulty of unilaterally addressing corruption crimes that threaten the entity of states economically, politically and socially, which makes the employment of legal and judicial expertise and experiences between states in the field of information and data exchange, which would prevent the occurrence of corruption crimes, uncover the perpetrators, or help arrest them or seizing the tools and funds used or intended to be used in committing them is an unavoidable thing in order to prevent and combat this type of crime.
- 2- Proving the effectiveness of special investigative methods in combating corruption crimes in their traditional and newly developed forms, a fertile field for the resulting evidence that may be difficult for the perpetrators to push or prove otherwise, after the traditional investigation methods failed to keep pace with the accelerating crime of corruption in quantity, quality and means.
- 3- Maximum use of what is stated in international and regional conventions and any bilateral arrangements or agreements related to combating corruption crimes, in particular in the field of using special means of research and investigation to uncover evidence of corruption and prosecute its perpetrators, as it represents the practical guide in the manner and appropriate guiding method that assists countries in taking as it deems appropriate, subject to its legal systems.

As for the recommendations, they are as follows-:

- 1- The necessity of amending the Code of Criminal Procedure by granting members of the judicial police the power to use special investigative means to control corruption crimes such as monitored delivery, interception of correspondence, recording of

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voices, taking pictures, leakage or penetration, secret, private or covert operations, and monitoring of electronic communications.

- 2- The necessity of restricting the use of investigative methods related to the requirement of obtaining judicial permission in a manner that does not conflict with the right to the sanctity of private life and protection from violating privacy. .
- 3- Ensuring the right of defense with guarantees that limit the arbitrariness of the authorities entrusted with the assistance of the means of special investigations by informing the accused and those suspected of committing corruption crimes of the evidence obtained from them and the amount of authority they enjoy in accordance with the legislation in force.
- 4- Considering the official minutes, statements and written reports as a preliminary outcome on the totality of the special investigative methods used in corruption cases as mere inferences that are not binding on the judge, which in our view constitutes an obstacle to achieving prompt justice, especially if we take into consideration the risks faced by those charged with investigating and collecting evidence from members of the judicial police or the organs of the judiciary. Enforcement of the concerned and cooperating legal, so we believe that the legislator must intervene in this issue similar to what he did with the records stipulated in Article 221 of the Code of Criminal Procedure No. 23 of 1971, as amended in terms of giving them official and conclusive authority, as he considered the minutes, reports and official books Which the competent employees and employees write as an argument to prove the facts it contains, and the court may adopt it as a reason for ruling, and all of this without sacrificing the litigants' right of appeal and proving the opposite of what is stated in it.
- 5- Developing the skills of those in charge of research, investigation and auditing from members of the judicial police, the public prosecution and judges by using special means of investigation and refining their expertise by engaging them in specialized training and qualification courses, using universities, the Judicial Institute and legal research centers, encouraging conducting research and studies, learning about successful experiences and practices, exchanging experiences and studying cases important task and draw lessons learned from them in practice.

Margins

- 1- Muhammad bin Yaqoub Majd Al-Din Al-Firouzabadi, Al-Muhit Dictionary, Part Three, Dar Al-Hadith Cairo, 2013, p. 321
- 2- For more, see: Mortada Nouri Mahmoud: The General Strategy for Combating Administrative and Financial Corruption in Iraq, The Scientific Conference on Integrity, the Basis of Security and Development, Integrity Commission, Iraq, 2008, p. 76.
- 3- See: First Amendment Law No. 19 of 2019 to the Integrity Commission Law No. 30 of 2011, published in the Official Gazette, Al-Waqa'i Al-Iraqiya, No. 4568 on December 23, 2019.
- 4- See: Dr. Qadri Abdel-Fattah El-Shahawi, Controls of Police Authority in Egyptian Procedural and Comparative Legislation, 1st Edition, Maarif Foundation, 115 d. Alexandria, 1999, p. 75 d. Hassan Sadiq Al-Marsafawi, Scientific Aspects of Criminal

- Investigation, *The National Criminal Journal*, Volume Eleven, Egypt, 1968, p. 181 d. Edward Ghaly Al-Dhahabi, *Criminal Procedures*, Gharib Library, Cairo, 1990, pp. 334-335.
- 5- See: Dr. Ahmed Ghay, *Guarantees of the suspect during preliminary investigations, a comparative study of the theoretical and practical guarantees established for the suspect in Algerian, foreign legislation and Islamic law*, second edition, Homa House for Printing Publishing and Distribution, Bouzareah Algeria, 2011 p. 219.
 - 6- See: Dr. Mahmoud Najib Hosni, *Explanation of the Code of Criminal Procedure*, Cairo, Dar Al-Nahda Al-Arabiya, 1982, p. 494, d. Elias Abu Eid, *Theory of Evidence in Civil and Criminal Procedures*, Beirut, Zain Human Rights Publications, second edition 2005, p. 263.
 - 7- For more, see the second book entitled *Investigating Crimes, Gathering Evidence, and Preliminary Investigation - Part One Members of Judicial Control - Articles from (39-46) of the Code of Criminal Procedure No. 23 of 1971, as amended*.
 - 8- See Article 220 of the Code of Criminal Procedure No. 23 of 1973 as amended, which states the following: (a) The investigation minutes and the evidence-gathering minutes, including the procedures of detection and inspection, and other official records, are considered elements of proof that are subject to the discretion of the court. The litigants may discuss them. B- The court may consider the facts recorded by the employees in their reports in implementation of their official duties as evidence supporting their testimony if they had written down these facts at the time or close to their occurrence. Minutes, reports, and official books written by officials and employees specialized in violations are an argument for the facts that they contain, and the court may take them as a reason for ruling the violation without being obligated to investigate its authenticity.
 - 9- See the text of the article, see Article (1/b) of the Code of Criminal Procedure No. 23 of 1971, as amended. For more, see Dr. Muhammad Odeh Al-Jabour, *Jurisdiction of the Control Officer*, Legal Study, Beirut, Arab House of Encyclopedias, pp. 73-72. As well as Mamdouh Ibrahim Al-Sabki, *The Limits of the Powers of the Judicial Control Officer in the Investigation*, Cairo, Dar Al-Nahda Al-Arabiya, 1972, p. 36 Qadri Abdel Fattah Al-Shahawi, *Legal Police Encyclopedia*, Cairo, World of Books, 1979, pp. 526-522.
 - 10- Dr. Mijrab Al-Thawadi, *Special Methods for Research and Investigation in Organized Crime*, PhD thesis, University of Algiers, Algeria 2016, pp. 15-19.
 - 11- For more, see the guide issued by the United Nations Office on Drugs and Crime, *Crime Scene and Physical Evidence*, United Nations Publications, New York, 2009, p. 1.
 - 12- See Article (47) of the Iraqi Code of Criminal Procedure No. 23 of 1971 (as amended) for the informant in crimes against internal or external state security, crimes of economic sabotage and other crimes punishable by death or life or temporary imprisonment, he may request anonymity and not be considered as a witness, and the judge may prove this with the summary of the news in a special record prepared for this purpose and conduct the investigation in accordance with the rules, making use of

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the information included in the news without indicating the identity of the informant in the investigative papers.(

- 13- See: The Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4041, dated: 06/17/2007
- 14- See: The Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4268, dated February 18, 2013
- 15- See: The Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4446, dated 8/5/2017
- 16- See Faisal Musaed Al-Anzi, The Impact of Proof by Modern Technology on Human Rights, Master's Research, Naif Arab University for Security Sciences, 2007, pp. 98-99
- 17- See Dr. Amir Farag Youssef, Arrest and Inspection according to the Code of Criminal Procedure and the Judgments of the Court of Cassation, Al-Wafa Law Library, first edition, Alexandria 2013, p. 218.
- 18- For more, see Law of Ratification of the Arab Convention on Combating Information Technology Crimes No. 31 of 2013 published in the Official Gazette, Al-Waqa'i Al-Iraqiya, No. 4292, dated 9/30/2013
- 19- See Article (47) of the amended Iraqi Penal Code No. 111 of 1969
- 20- See Article (48) of the amended Iraqi Penal Code No. 111 of 1969
- 21- See more, d. Mahmoud Naguib Hosni, Criminal Contribution to Arab Legislation, a collection of lectures delivered to graduate students at Cairo University, 2004, p. 4 and see also, Dr. Ahmed Fathi Sorour, Mediator in the Penal Code, General Section, Dar Al-Nahda Al-Arabiya, 4th edition, p. 78.
- 22- Article (24) of the United Nations Convention against Corruption stipulates that (without prejudice to the provisions of Article of the Convention, each State Party shall consider adopting the necessary legislative and other measures to criminalize willful conduct following the commission of any of the offenses established in accordance with this Convention and without Participation in that offense by concealing or continuing to retain property when the person concerned knows that such property is the result of any of the offenses established in accordance with this Convention.
- 23- In most cases, the agencies charged with combating crime employ people who do not belong to them, or those with criminal behavior to carry out the infiltration process in the hope of obtaining certain privileges, as is the case in Egyptian legislation with regard to the secret guide. See, Gamal Gerges, The Constitutional Legitimacy of Judicial Police Acts, Golden Eagle for Printing, without a year of printing, Cairo, p. 391
- 24- The Algerian legislator, according to Law No. 06-01 relating to the prevention and control of corruption of 2006 in the amended Article 65 of the Code of Criminal Procedures of 1966, punished with imprisonment from (2 to years) and a fine of 5000 to 200,000 Algerian dinars for anyone who disclosed the identity of the leaker or caused If that results in revealing violence against the dropout or his relatives, he shall be punished by imprisonment from 5 to 10 years and a fine of 200,000 to 500,000 Algerian dinars, and if the disclosure leads to the death of the dropout or his relatives (wife or children) The direct punishment shall be from 10 to 20 years and a fine of from 500,000 dinars to one million Algerian dinars, without prejudice, if necessary, to

the application of the provisions of Chapter One of Part Two of Book Three of the Penal Code.

- 25- The United Nations Convention against Transnational Organized Crime, adopted by United Nations General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organized crime. The agreement was opened for signature by member states at a high-level political conference that was held for this purpose in Palermo, Italy, from 12-15 December 2000 and the agreement entered into force on September 29, 2003. Three protocols targeting specific areas and aspects are attached to the agreement. of organized crime, which includes the following: a protocol to prevent, suppress and punish trafficking in persons, especially women and children; Protocol against the smuggling of migrants by land, sea and air. and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. Countries must be parties to the same convention before becoming parties to any of the protocols.
- 26- The 2005 United Nations Convention Against Corruption is the only legally binding universal instrument against corruption. The semi-mandatory nature of many of its provisions makes it a unique tool for developing a comprehensive response to the problem of global corruption. The Convention covers the five important areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, technical assistance and information exchange. It explicitly criminalizes acts of bribery, trading in influence, abuse of jobs and various acts of corruption in the private sector. It is noteworthy that the vast majority of the member states of the United Nations are parties to this agreement.
- 27- The 2010 Arab Anti-Corruption Convention is the latest addition to the group of regional instruments concerned with combating corruption, signed by 21 Arab countries on December 21, 2010. This agreement aims to strengthen measures aimed at preventing, combating and exposing corruption in all its forms, and other related crimes. and prosecuting its perpetrators, strengthening Arab cooperation in preventing, combating and exposing corruption, recovering assets, promoting integrity, transparency, accountability and the rule of law, and encouraging individuals and civil society institutions to participate effectively in preventing and combating corruption.
- 28- See Article (40) of the Constitution of the Republic of Iraq in force for the year 2005
- 29- See articles (39-86) of the amended Code of Criminal Procedure No. 23 of 1971.
- 30- The Law of the Integrity Commission was amended by virtue of the First Amendment Law No. 30 of 2019 published in the Official Gazette, Al-Waqa'i Al-Iraqiya, No. 4568 on December 23, 2019
- 31- This law was published in the Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4041 on 06/17/2007
- 32- This law was published in the Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4047 on 3/8/2007
- 33- This law was published in the Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4268 on February 18, 2013

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- 34- Publication of the Electronic Signature and Electronic Transactions Law No. 78 of 2012 in the Official Gazette, Al-Waqa'a Al-Iraqiya, 4256 on 5/11/2012
- 35- This law was published in the Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4274 dated 4/15/2013
- 36- This law was published in the Official Gazette, Al-Waqa'a Al-Iraqiya, No. 4437 dated 6/3/2017

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- 1- Muhammad Bin Yaquob Majd Al-Din Al-Firouzabadi, Al-Muhait Dictionary, Part, Dar Al-Hadith, Cairo, 2013.

B- legal books

- 1- Dr. Ahmed Ghay, Guarantees of the suspect during preliminary investigations, a comparative study of theoretical and practical guarantees for the suspect in Algerian legislation, foreign legislation and Islamic law, second edition, Homa House for Printing, Publishing and Distribution, Bouzareah, Algeria, 2011.
- 2- Dr. Ahmed Fathi Sorour, Mediator in the Penal Code, General Section, Fourth Edition, without a year of publication.
- 3- Dr. Amir Farag Youssef, Arrest and Inspection according to the Criminal Procedures Law and the Judgments of the Court of Cassation, Al-Wafa Legal Library, first edition, Alexandria 2013.
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