

July - December 2022

Volume 31

Issue 2

PRINT ISSN: 2277-1867

ONLINE ISSN: 2277-8853



# JOURNAL OF FORENSIC MEDICINE SCIENCE AND LAW

Official Publication of Medicolegal Association of Maharashtra

**Editor-in-chief**

Dr Ravindra Deokar

**Associate Editors**

Dr Sadanand Bhise

Dr Sachin Patil

**MULTISPECIALITY, MULTIDISCIPLINARY, NATIONAL  
PEER REVIEWED, OPEN ACCESS, MLAM (SOCIETY) JOURNAL  
Indexed with Scopus (Elsevier) & Index Copernicus (Poland)**

**Editorial Office Address**

Department of Forensic Medicine & Toxicology, Third Floor, Library Building, Seth G S Medical College & KEM Hospital, Parel, Mumbai, Maharashtra, India. Pin-400 012. Email id: [mlameditor@gmail.com](mailto:mlameditor@gmail.com) Phone: 022-24107620 Mobile No. +91-9423016325.



# JOURNAL OF FORENSIC MEDICINE SCIENCE AND LAW

(Official Publication of Medicolegal Association of Maharashtra)

Email.id: [mlameditor@gmail.com](mailto:mlameditor@gmail.com)

PRINT ISSN:

2277-1867

ONLINE ISSN:

2277-8853

## Original Review Article

### **Criminal Justice Process for the Forensic Medicine in Murder Crimes**

Ahmad Hussein Alsharqawi<sup>a\*</sup>, Ezzat El Emary<sup>b</sup>, Anan Younes<sup>b</sup>

<sup>a</sup>Faculty of Law, Applied Science Private University Al Arab St 21, Amman, Jordan. <sup>b</sup>Assistant Professor, Faculty of Law, Al Falah University, Dubai, United Arab Emirates.

#### Article Info

**Received on:** 01.12.2021

**Accepted on:** 14.03.2022

#### **Key words**

Criminal Investigation,  
Justice,  
Law,  
Jordanian Code of  
Criminal Procedure.

#### Abstract

The goal of this review article is to better understand the function of forensic medicine in Jordan's criminal justice system. The study demonstrated what forensic medicine entails and how it relates to Jordanian legislation and court procedures, as well as the judge's discretionary right to take forensic reports, particularly in the case of murders; the study came to a satisfactory conclusion.

#### 1. Introduction

As Forensic medicine plays a key role in identifying the crime and its repercussions. There is an influence on research methods and fact-conditioning in this manner. Injuries, deaths, and sexual crimes are all examples of this. Forensic medicine has a practical and technical role to play when the investigation fails to reveal the reasons and perpetrators of odd crimes. These places are searched and investigated in an effort to find the evidence that supports it. The accused is either convicted or acquitted of the charges against him<sup>1</sup>.

We discover the forensic doctor doing medical exams on the wounded and expressing the nature and description of the injury, together with an indication of its cause and the date of its occurrence, in the public responsibilities he plays throughout the investigative phase. In addition, the sort of equipment or object that was used to make it, the risk of a permanent handicap, the

evaluation of its stability, and its connection to the attack are all factors that might be considered.

It is the duty of the medical examiner, who has been deputized to assist at the scene of the crime, to perform these exams with integrity and honesty and issue a medical report verifying the examination<sup>2</sup>. Aside from conducting a postmortem examination of the deceased's body in criminal investigations and cases involving the suspicion of foul play or other causes of death, it is necessary to express technical opinions regarding accidents and errors, as well as test blood, sperm, and hair samples to learn about diseases<sup>3</sup>.

Most likely, the most important purpose of analyzing the corpse is medical identification, which will let investigators figure out who the deceased is, even if that person is already known, and calculate an estimated period of death from the throwaway changes. Furthermore, find out the

**How to cite this article:** Alsharqawi AH, Emary E, Younes A. Criminal Justice Process for the Forensic medicine in Murder Crimes. J For Med Sci Law 2022;31(2):77-79.

\*Corresponding author: Ahmad Alsharqawi, Lecturer at Applied Science Private University Faculty of Law, Al Arab st. 21-Amman-Jordan. (M): 00962796070234. Email- [Ahmad\\_alsharqawi29@hotmail.com](mailto:Ahmad_alsharqawi29@hotmail.com)

reason for death, as well as the condition of the deceased corpse and whether or not someone moved it after death so that he can perform an autopsy if the deceased's condition is the consequence of criminal activity, regardless of whether the crime was committed intentionally or not. In addition to the situation where a dead body is discovered in water, if a deceased person is found after being burned or poisoned, an autopsy is considered a necessary diagnostic matter in the course of a forensic medical investigation. It also helps to know what type of crime has occurred, such as a suicide or a natural death caused by a disease.<sup>4</sup>

## 2. Discussion

When a criminal offense is committed, representatives of the judicial police, the public prosecutor, and experts are dispatched to the site to ascertain the crime's specifics, causes, and circumstances. However, members of the judicial police, public prosecutor, and judge may encounter scientific or technological challenges that cannot be addressed owing to their understanding of specialized judicial and legal skills within the confines of their authority and specializations. As a result, the Jordanian legislature approved the Jordanian Code of Criminal Procedure No. 9 of 1961 and its subsequent changes. However, the court and public prosecutor may seek the assistance of forensic medicine to clarify what is ambiguous and difficult for the court or public prosecutor to determine, pursuant to Article 20 of the same law, which states that if a person dies as a result of murder or an unknown cause that raises suspicion, the public prosecutor may seek the assistance of one or more doctors to organize a report of the causes of death and the condition of the deceased body.<sup>5</sup>

Forensic medicine is a branch of medicine concerned with elucidating issues of interest to the judiciary, such as examining the corpse to ascertain the variables that occur after death and the causes that contributed to its occurrence, as well as determining the manner and date of death, the tool used to cause it, and the time period between the time of death and the date of body disclosure.<sup>6</sup> Forensic medicine is of great importance concerning criminal cases, especially murders, whether at the primary investigation stage or the trial stage, and it depends on the forensic medical evidence sometimes the accused's conviction or acquittal. Opinions differed in order to determine the legal nature of the experience. Means of forensic proof and based on

two elements: proof of the occurrence of the crime and the attribution of this crime to its perpetrator.<sup>7</sup> Another aspect went so far as to say that it is a way to assess the evidence the judge uses to reach the veracity, and he cannot use it if he is not satisfied with him, and we support this opinion.

Forensic medicine searches in murder crimes for the death and its cause and searches for the type of material means used to kill through the apparent examination of the bodies to prove their injuries and the cause of death, or the forensic medical examinations of the body if the cause of death is not known by apparent detection.<sup>8</sup> The forensic doctor examines the corpse and the victim's clothes, type and colour, describes its content, notes any lacerations or spots of blood or sperm on it, and then studies the signs of the corpse's changes (cooling, blood deposition, stiffness, analysis). As for the internal examination of the corpse, the anatomical characteristic is considered one of the most important and accurate works of the results it entails, and the dissection is according to the following principles (neck, abdomen, head and chest). The forensic doctor records his observations about that corpse. Then he searches for determining the time of death. For example, if the condition of the corpse is hot and there is no sedimentation and hardening of the body, then the time of death is estimated from one to two hours. But if the corpse has lost its temperature and the stiffness of the body is noticed, then the death occurred from 3-8 hours.<sup>9</sup>

After that, the forensic doctor prepares his experience report, and the expert report is the essence of the expert process, as through it the forensic doctor presents the results of his research that constitute the necessary technical and scientific elements that benefit the judge or investigator in clarifying the truth and allow him to make his judgments in the light of it. The expert opinion includes a statement of proof of evidence and a detail of its elements.<sup>10</sup> A proposal from a medical and scientific point of view of the value it can have in proof<sup>11</sup>, and an application of the principle of judicial conviction, the judge shall have the discretionary power to assess its value as is the case with the rest of the evidence that the court appreciates after it is discussed by the litigants and in an oral application and confrontation. In the trial, the court may or may not be convinced of the forensic doctor's report as it deems appropriate, according to the conscience

principle stipulated in Article 174 of the Jordanian Criminal Procedures Law as long as it is the only evidence.

In the implementation of this, the Jordanian Court of Cassation ruled in its Decision No. 46/1978: that although the trial court's conviction of evidence is not subject to the control of the Court of Cassation, this court has the right to monitor it in terms of whether or not the evidence is legal because this issue is related to legal applications and not from realistic matters and to the judge That his conviction is in the evidence contained in the case without being bound by a certain way or a certain type of evidence, and this is what the Jordanian legislator confirmed in the text of Article 86/2 of the Code of Civil Procedure that the expert's opinion does not restrict the court. The judge is free to take evidence when he reassures his conscience and can be excluded evidence if he is not satisfied.

### 3. Conclusion

The criminal investigation is a struggle between the investigator and the criminal, the first aims to reach the truth, and the second tries to obscure it to escape punishment. In its general sense, the investigation takes all legitimate measures and means that lead to uncovering the truth. The road and guides how to walk and search for evidence. Forensic medicine is a term that consists of two parts: medicine and law. As for medicine, it is the science that is concerned with everything related to the human body, whether alive or dead, and Sharia means the law that separates disputes between individuals. Forensic medicine is not limited to writing medical reports or autopsy; it is a living science in its own right, the importance of keeping pace with recent and accelerating developments and advanced theories in analysis and diagnosis.

The opinion of the forensic doctor does not restrict the court, and the judge is completely free to take evidence when he is satisfied with his

conscience. However, evidence can be excluded if he is not satisfied so that it has become necessary to design a special curriculum for criminal sciences for law students in Jordanian universities in a manner consistent with the legal mentality.

**Contributor ship of Author:** All authors equally contributed.

**Conflict of interest:** None.

**Source of funding:** Nil.

### References

1. Batrawy AL. Forensic Medicine and Toxicology. 1st Edition. Amman: Tariq Bookshop; 2004.
2. Shahrer HA. Forensic Medicine Principles and Facts. 1st Edition. Beirut: Alhalabi Legal Publisher; 2000.
3. Eckert WD. Introduction to the Forensic Sciences. 2nd Edition. London: CRC Press; 1997.
4. Abuissa, HA. Law of Criminal Procedures. 1st Edition. Amman: Wael Publishing House; 2013.
5. Mashali AH. Al Wajeez in Forensic Medicine. 1st Edition. Alexandria: Dar alwafaa; 2009.
6. Alma'aytah MO. Forensic Evidence and Criminal Investigation. 1st Edition. Amman: Dar althaqafa; 2000.
7. Abuissa H, Juwaihah M. The Extent of the Need for Teaching Forensic Science for Law Students in Jordanian Universities. Indian J Forensic Med Toxicol. 2021; 15(1): 1097-1100.
8. Berman M, Kim A. Bridging the Gap between Science and Law: The Example of Tobacco Regulatory Science. J Law Med Ethics. 2015; 43(1): 95-8.
9. Elrefaie A, Alsharqawi A. The Criminal Liability of the Forensic Doctor as a Judicial Expert According to Jordanian Law. Indian J Forensic Med Toxicol. 2021; 15(4): 254-8.
10. Al-Hendi NI. Distortion of Meaning in Forensic Medicine Reports. J For Med Sci Law. 2021; 30(2): 67-70.
11. Leena K, Kumar K, Ahmad N. Role of Forensic Botany in Crime Scene Investigation -A literature review. J For Med Sci Law. 2021; 30(2): 52-6.