Science Arena Publications
Specialty Journal of Politics and Law
ISSN: 2520-3282
Available online at www.sciarena.com
2020, Vol, 5 (1): 1-10

Duties and Authorities of the Judicial Police According to the New Law on Criminal Trial Procedures

Hadi Davoudi

MA graduate, Economic Law, Islamic Azad University, Sabzevar Branch, Sabzevar, Iran.

hadidavoodisparrin 1368@gmail.com

Abstract: *Judicial police is divided into two categories: general and special judicial police. Of course, there is a third type introduced by some of the jurists that is known as the disciplinary police. One of the authorities of the judicial police in terms of the preservation and restoration of public order is taking the necessary measures regarding the evident crimes. Based on the trial procedures law in criminal affairs, crimes are categorized into two groups of evident and non-evident with the former taking place in the view field and before the law enforcement bodies or immediately after their presence or with the crime evidence and means being found in possession of the culprit; the law enforcement bodies are obliged to take the necessary measures for saving the victim by his or her request (article 21 of the criminal trial procedures law). In Iran's criminal trial procedures law, evident crime has been used beyond its literal meaning and includes many cases. In confrontation with the evident crimes, the judicial police and law enforcement bodies have the authority to pursue and arrest the culprit if it is deemed necessary for supplementing the investigations but they can keep him or her at most for 24 hours. In other words, general judicial police are required to perform the preliminary investigations on such crimes even without the order by the judicial authority. Inspection of the houses and places and searching of the objects in cases of the evident crimes can be also done in adherence to the other legal arrangements by the judicial police without judicial writs as perceived based on the opposite concept of article 24 of the criminal trial procedures law. Furthermore, criminal indictment of some of the individuals by the judicial authorities and police should be done subject to certain conditions even if the crime is of the evident type and this has been inserted in the discussions on immunities.*

Keywords: *general judicial police, evident crime, quality of confrontation.*

INTRODUCTION

Power and responsibility are two inseparable pillars. The superior power often causes damage to the more subordinate force. From long ago, a country's power has been assessed based on its military might. Based thereon, the majority of the kings were military powers and their damages and injuries were left uncompensated because the kings and military men had a high physical power. The reason for the non-liability of the kings and military men was that their words were rules in the then periods of time and there was no law but, nowadays, everyone is equal before the law because the right that is not identically granted to every person cannot be envisioned as a right. The theory of everyone's equality before the law was gradually expanded and every person is currently equal before the law and in terms of punishment. The human communities are incumbently urged to collect military force for preserving their governments, independence and territorial integrity and safeguarding of their security. Every country and every government's security

and independence, both domestic and foreign, can be safeguarded in the light of military power. Fighting against the foreign invaders or the citizens that disrupt social security inside the country via violating the regulations cannot be done except by military vigor. Therefore, to do so, the countries propose the formation and organizing of the military force parallel to the repelling of the domestic and foreign dangers and establish special military organizations and institutions to recruit efficient and able individuals. Social life is so much interlaced with such concepts as damage, loss and casualty that it seems as if human damages and losses are parts of the human life. Jurists, as well, have been from long ago looking for principles to compensate the damages stemming from various incidents. The extensiveness of the military force and their duties and working with dangerous and accident-prone instruments like shooting, guns and explosives and so forth have occasionally caused the imposition of damages to the innocent citizens so it is twice as much necessary to investigate the criminal and penal liabilities of the disciplinary forces and the police. During the long years, verdicts have been issued and identified regarding the kinds and conditions of the compensable damages and their pillars and outcomes; these are called the general rules of criminal liability.

Study Background:

1) **Ansari, Mustafa and Bakhtiari, Abu Al-Hasan: the position of the justice department's law enforcement officials in the new criminal trial procedure law (passed in 2013)/ the first international congress on Iran's laws (2015):**
   Numerous factors are involved in the formation of the criminal files the most important of which are the justice department's law enforcement officials. The recognition of the rights and duties of this set of officials plays an accentuated and manifold role and is effective in the formation of criminal files, especially in the preliminary stages and initial investigations as well as the authorities' judgments about their performance. In the new criminal trial procedure, there are seen relatively large numbers of changes in contrast to the criminal trial procedure law, passed in 1999. For codifying the new criminal trial procedure law, use has been made of France's trial procedure law.
   Not all the forces have the required qualifications to be the judicial police rather those forces are to be considered as the law enforcement officials that have passed the required instructions. Obtaining the position of the justice department's law enforcement official is suspended on the learning of the required skills through passing the instructional courses under the supervision of the corresponding judicial authorities and acquiring of a special law enforcement ID card by both of the general and special law enforcement sets. The justice department's law enforcement officials are obliged to inform the plaintiff and the culprit of their rights as stipulated in the laws of the criminal trial procedure. In the new law, demarcation of the law enforcement officials' duties for the case of evident crimes, the validity of the law enforcement officials' measures in respect to such crimes and the separation of the administrative duties from the judicial duties of the law enforcement officials and legal mandates for falling short of informing the culprits and suspects of their rights are amongst the cases with which the codifiers of the criminal trial procedure law have dealt.
2) **Qomi Oyli, Elham, (2018), "culprit's rights before the justice department's law enforcing agents in the criminal trial procedure law of 2013", Journal of Law Assistant, summer, 2018, no.6, (21 pages: pp.435-455):**
   Culprit and his or her rights have always been amongst the most important discussions related to the criminal trial procedure and they have currently found a daily increasing importance and are envisioned amongst the most important indicators of the individual rights and freedoms in the communities. In the present study, these rights and their warrants in the new law have been discussed and investigated and the weak and strong points of the new law have been explored in this regard. The necessity for observing the principle of fair and just trial necessitates observance of the

culprit's defensive rights in the criminal trial process and setting of certain requirements for the judicial police and authorities so as to prevent them from trampling the culprit's rights via making taste-based interpretations. In line with these necessities, the legislator has paid a larger deal of attention in the enactment of the new criminal trial procedure law to the culprit's defensive rights and the new law contains positive evolutions and innovations in this regard amongst which the clear and vivid acceptance of the right to remain silent for the culprits as one of their defensive rights, the right to make calls to their families and relatives, their right to have a lawyer and be informed of this right from the very beginning of being put under surveillance and detained can be pointed out and these are considered as positive and important steps parallel to the observance of the culprit's defensive rights.

3) **Yusefi, Hussein, "justice department's law enforcement officials and the right to access to a lawyer", thinkers of law, summer, 2017, no.13 (12 pages, pp.137-148):**

It was with the approval of the criminal trial procedure law in March, 2013, that the legislator allows the presence of the defendant's lawyer during the police investigation stage according to articles 48 and 52 of the law corresponding and parallel to the principles of UN and international standards in regard of the right to have rapid access to a lawyer. But, using a little scrutiny in the article 6 of the foresaid law that forms the basis of such a right for the culprit, the law's silence and inadmissible barriers and constraints are encountered in this regard; on the other hand, the shortfalls of the codification of the procedures and adoption of the proper and required procedures for the enforcement and fulfilment of the aforementioned law can be observed in the police centers and offices. The aforesaid shortcomings and limitations pertain to the providing of information about the right to access to a lawyer, facilitation of the affairs and provisions related to legal assistance, supervisory mechanisms and supervision on the facilitation of access to the legal aids, instructing of the police officers regarding this right, removal of the barriers and hindrances in the legal counseling and so forth. The result is that although the providers of the legal helps play a very important role in the provisioning of a fast access to the legal contributions, right cannot be pursued without effective cooperation, arrangement of procedures, adoption of the proper processes and methods that are followed by the police as the general law enforcement officials of the justice department; instructing the police officers about this right, its importance as well as the significance of the relevant regulations and procedures can be effective, as well.

4) **Rigi, Maryam and Rezania, Hamid, "duties and authorities of the justice department's law enforcement officials in the criminal trial procedure law, passed in 2013", political sciences, law and jurisprudential studies, winter, 2016, 2(1&4): 233-245, 13 pages**

Following articles 62 to 66 of France's criminal trial law and in order to preserve the rights of the citizens and control the interventions depriving the aforementioned freedom in case of the law enforcement officials' use of this right, the codifiers of the criminal trial procedure law have required the observance of the following points by them in addition to the verdict of article 5 of the criminal trial procedure law indicating the "rapid informing of the culprit of the subject and proofs of the attributed accusation and also his or her rapid access to the lawyer and the other defensive rights mentioned in the law": informing the attorney general or the on-duty judge of an individual's being under surveillance (for adopting legal decisions), supplying the required facilities for the exertion of supervision on the intended person, informing the culprit of the accusation and its proofs in written form and immediately after his or her being supervised, observing the maximum supervision time (24 hours), writing down the information related to the culprit's ID card, job, address and the reason for his or her surveillance at most within one hour and reporting it to the local court, allowing the culprit's meeting with his or her lawyer for a maximum period of one hour (the lawyer can meet his defendant one week after the initiation of detention in cases of organized crimes or crimes against the domestic or extraterritorial security, robbery, narcotics and psychotropic drugs smuggling and/or

crimes deserving death penalty, life sentence and amputation and intentional crimes against the physical integrity with punishments of one third of a complete blood money or more than that), acquiring of written notes procured by the lawyer after meeting with the culprit and inserting it in the filed case, informing the culprit of his or her right (and making it available to him or her in written form) and acquiring a receipt of delivery from the culprit and attaching it to the file, allowing the culprit's family members or relatives to become aware of his or her detention by telephone or by any possible means (if the law enforcement officials happen to disagree with this want of the culprit, the issue has to be announced to the judicial authority for acquiring the expedient order), agreeing to the detained person's or one of his or her relatives' request for performing medical examinations by a physician appointed by the attorney general and acquiring a certificate from the physician and embedding it in the file, providing answers to the parents, spouse, children and sisters and brothers of the culprit regarding his or her detention and write down the detainee's assertions in this regard. "The justice department's law enforcement officials are obliged to write the detained person's assertions, the reason for his or her detention, the date and hour of detention initiation, interrogation time, resting time between two interrogations and the date and hour at which the person has been introduced to the judge in the minute and ask the culprit to sign or fingerprint it".

Topic One: Terminology

Chapter One: Law Enforcement Official Conceptualized

Paragraph One: Literal Meaning of Law Enforcement Official

Law enforcement official literally describes a person who provides, keeps and holds a thing or the bailiff who has been assigned by the governor for recording the whereabouts of the city based on certain procedures (Mo'ein, 1993 p.258). The phrase "law enforcement official" or "bailiff" is equivalent in Arabic to "Zabet" [recorder] which is a noun from the root "Zabt" [record] that means holding and preserving things or enforcing law on behalf of the governor.

Paragraph Two: Common Meaning of "Law Enforcement Official"

Law enforcement official or bailiff is equivalent in Arabic to "Zabet" that is commonly used for recording and holding things.(Dehkhada1992.2010)

Chapter Two: Liability Conceptualized:

Paragraph One: Literal Meaning of Liability

Liability means commitment and guarantee. If it is said that a person is liable for something, it means that s/he has the responsibility for it or is obliged to guarantee and be bound thereto (Amid, 2009, p.258). Therefore, when a person is obliged to do something, s/he has actually accepted its responsibility (Amid, 2009, p.258).

The term responsibility or liability literally means guarantee, mandate, commitment and reprimand and responsible is the person who has been obliged to do something otherwise s/he will be reproached" (Amid, 2009, p.258). The term "responsibility" is equivalent in Arabic to "Mas'ouliat" from the root "Sa'ala Yas'al" meaning "being obliged to do something and/or being accountable for a commitment and duty" (Amid, 2009, p.456). It indeed refers to a commitment the non-performance of which would cause reproach and it is a secondary conceptualization of the existence of a prior duty and commitment (Yazdanian, 2001, p.26).

The mankind senses his being dutiful for things. As believed by some, sense of duty is the emergence of a sort of reaction in the human beings the result of which is an active effort, subjective or objective (Yazdanian, 2001, p.26).

Based on the responsibility that comes about for a person, there is a specific obligational relationship between the loss-incurred and the liable persons with the former becoming the creditor and the latter becoming the debtor and with the primary issue being the payment of conception for the loss incurred and the dispute is most predominantly resolved via payment of a sum of money (Katouziyan, 2014, p.99).

Paragraph Two: Common Meaning of Liability

Liability is amongst the concepts always stated about the human beings; as soon as talks are made of the mankind and his behaviors, this concept is highlighted. Disregarding the environment wherein a person lives, s/he is obliged to somehow deal with this concept. A person is responsible in every state for his or her behaviors occasionally in respect to his or her family and sometimes in respect to the society. Human beings are also responsible for the animals and environment. Negligence of this concept would somehow afflict the mankind with selfishness and weakens his relationship with the elements and factors somehow effective in his destiny. The individuals' responsibility is currently being applied as an important keyword in the humanities field of study, including sciences of religion, management, psychology, sociology and politics and others each of which has dealt with it from a special viewpoint (Katouziyan, 2014, p.32).

Chapter Three: Criminal Liability Conceptualized

It has to be generally stated that requiring an individual to remain accountable to the others' abuses, whether for supporting the individual rights or defending the society, is posited under the title "criminal liability" or "penal liability". However, the legal nature and definition of criminal liability has not been clearly mentioned in any of the penal laws whether in the past or at present. But, criminal liability is a sort of personal requirement to remaining accountable to the unfavorable effects and outcomes of the penal phenomenon or crime (Khaleghi, 2010, p.49).

Chapter Four: Justice Department's Law Enforcement Officials Conceptualized

The criminal trial procedure law defines justice department's law enforcement officials as follows: "justice department's bailiffs are the agents who take measures under the supervision and teachings of the judicial authority in line with the crime discovery, preliminary prosecution and preservation of the effects and proofs of crime and prevention of the culprits' escape and hiding and announcing of the orders and enforcing of the judicial decisions by the force of law (Afrasiabi, 1995, p.58).

Topic Two: Authorities of the Justice Department's Law Enforcement Officials and their Types

Judicial police or bailiffs are the enforcement arms of the courts and public prosecutor offices in their fulfilment of their duties. The law has assigned them to many duties that are to be performed from the first instants after the crime occurrence till the last minutes of the punishment enforcement and include crime discovery, reporting the crime occurrence to the public prosecutor offices, prevention of the destruction of the crime proofs and effects, preventing the culprits from getting away, performing of the judicial authorities' orders in the course of investigation and interrogation and delivery of the judicial papers and writs. The justice department's law enforcement officials have authorities in their performing of their duties that can even include the deprivation of citizens from their freedom; due to the same reason, it is necessary for the individuals who have been appointed as bailiffs and law enforcers and have their duties to be specified by the law (Khaleghi, 2010, p.58).

Chapter One: Kinds of Justice Department's Law Enforcement Officials

Paragraph One: General Law Enforcers

The general enforcers are the ones who are qualified to take the required measures for all of the crimes and their duties and authorities are not limited to certain crimes or conditions (Khaleghi, 2010, p.58). The general law enforcers are mostly comprised of Islamic Republic of Iran's disciplinary and police forces:

Corresponding to the paragraph 8 of article 4of the Islamic Republic of Iran's disciplinary force law, passed in 07/27/1991, the followings are the most important duties that the disciplinary and police forces have as the law enforcers of the judicature: 1) Fighting against drug dealing; 2) fighting with smuggling; 3) fighting with corruption and moral depravities; 4) prevention of crime occurrence; 5) crime discovery; 6) inspection and investigation; 7) conservation of the crime effects and proofs; 8) apprehension of the culprits and criminals and preventing them from running away and hiding; and, 9) enforcement and declaration of the judicial ordinances.

Paragraph Two: Special Law Enforcers

Special law enforcers are bailiffs qualified for intervening in special crimes under certain conditions and they do not intervene and take interventions for the other crimes lacking the foresaid special conditions. Now, the question is raised as to whether recognizing of these individuals as law enforcers for special cases denies or restricts the qualifications of the general law enforcers for intervening and taking measures in this area or not? It has to be stated in response that the general law enforcers are realized as the justice department's bailiffs under any circumstances and the special law enforcement agents do not limit or deny the involvement and intervention of the general law enforcers (Khaleghi, 2010, p.58).

Chapter Two: Authorities and Duties of the Law Enforcers

The duties of the law enforcers can be investigate in separate in regard of the evident and non-evident crimes.

1) Firstly, the preliminary investigations are carried out and the judicial authority is immediately informed.
2) The crime tools, instruments, effects and proofs are conserved on scene.

Paragraph One: the Duties of Law Enforcers in Evident Crimes

A) After performing the preliminary investigations, the findings are submitted to the judicial authority.
B) After the judicial authority's presence, no intervention is made unless in necessary cases (articles 18 and 25 of the criminal trial procedure law)
C) Prevention of the culprit's escape or collusion
D) Culprit's detention for supplementing the file in case of necessity but for 24 hours (article 24 of the criminal trial law)

Paragraph Two: Duties of the Law Enforcers in Non-Evident Crimes

Corresponding to article 18 of the criminal trial procedure law: "as soon as being informed of crime occurrence in cases of the non-evident crimes, the justice department's law enforcers inform the qualified judicial authorities of the whereabouts for receiving the proper orders and directions; in case that the crime occurrence is found dubious by the justice department's law enforcers and if they are not informed of it from authentic and trustable source, they should perform investigations before announcing it to the prosecuting officer and verify the authenticity or otherwise thereof so that the attorney general can be appropriately informed following their assurance of the crime occurrence" (Khaleghi, 2010, p.60).

One of the measures taken by the law enforcers is the creation of stop and search stations on the streets and in the entrances of the cities to inspect the passing vehicles. The legal administration of judicature has asserted in numerous advising notions in response to the inquiries thereof that the inspection and searching of the passing vehicles by the agents in these places is illegal without the judicial authority's order for the case of non-evident crimes (Ardabili, 2000, p.98).

For example, it is stated in part of this theory that "… according to the principles of Islamic Republic of Iran's constitution in the third chapter on the nation's rights, the search and inspection of the houses and vehicles and, generally, the people's properties and goods without their being accused of any offense is recounted as a sort of abuse to the nation's right hence prohibited from the perspective of the constitution. Performing any inspection and search in the people's houses and properties is done for crime discovery and prevention of the criminal's escape hence it has to be conducted under the supervision and by the explicit and direct order of the judicial authorities and by the justice department's law enforcers and permission for search and granting of agency to the qualified agents should be performed following the declaration of the crime occurrence in special cases and within the specified time. As for the searching of the automobiles in the entrances of the cities and/or inside them in case that they are suspected of carrying forbidden commodities and/or sued persons and if these inspections and searches are envisaged to be necessary in terms of the protection of social security and prevention of unfavorable incidents and/or crime discovery and pursuing of the criminals, they should be

carried out based on the abovementioned descriptions and with the announcement of the whereabouts to the corresponding judicial authority and acquiring of a specific agency[1].

According to article 119 of the trial procedures law in criminal affairs, the apprehension of the culprit has to be done by the force of a writ of arrest which contains materials that are also mentioned in a writ of summons and it has to be announced to the culprit. Article 112 of the aforementioned law stipulates regarding the contents of the writ of summons that "the writ of summons should contain the name, surname, date and summoning reason and the place of summon and the result of presence". Based on the note to the foresaid article, "the reason and the result of summon are not mentioned in case it is deemed expedient". Corresponding to article 112 of the aforementioned law, "summon is delivered in two copies one of which is given to the culprit and the other one is signed by the culprit and returned to the summoning agent" (Ensafpour, 1986, p.45).

Therefore, the writ of summon should be arranged in two copies both of which contain the name and surname of the culprit and the date and the reason for his or her arrest and the place wherein s/he has to appear. It is not necessary for the result of nonattendance to be mentioned in the arrest writ for the result of avoiding the arrest is the forcible arrest of the arrestee and his or her submission to the judicial officials. But, in case it is envisaged expedient, the reason for summoning can be not mentioned in the writ of arrest. The recognition of this expediency is up to the judicial authority. Several points should be made regarding the writ of summons:

Chapter Three: Limits of the Law Enforcers' Duties and Authorities

Paragraph One: Preliminary Investigations

One of the important and destiny-making stages in the general lawsuits is the preliminary investigation. The reason for the importance of this stage is that usually not much time has elapsed from the crime occurrence to the investigations' initiation and the crime effects have not been lost and the contingent witnesses are still remembering their observations and the culprit is quite likely to have not escaped yet or entered collusion with his or her partners and accomplices for getting rid of the punishment. This way, the investigations performed at this moment have a lot of effects on the conservation and collection of the proofs and forming a complete file ready to be tried in the court. The importance of timely and fast intervention by the investigation authority in this regard is undeniable. Thus, the speed of performing preliminary investigations is recognized as a principle governing the investigations without the investigation authority's sacrificing of his or her precision and with observance of the culprit's rights (Khaleghi, 2010, p.91).

Paragraph Two: Preliminary Investigation's Definitions

As the essential part of the criminal trial, preliminary investigation has been numerously defined. One set of these definitions incorporates the jurists' beliefs and notions and the next set encompasses the definitions based on which the criminal trial procedure law has been constituted.

1) **Jurists' Definitions:** in expressing the concept of the aforementioned term, some of the jurists have investigated it in two general and specific forms. In broad sense, the preliminary investigation is deployed against the defensive investigations during the court's sessions; in narrow sense, it is known as the collection of interventions made for crime discovery, prevention of the crime effects' destruction and culprit's escape or any measures taken by the judicial law enforcers and police. Therefore, the preliminary investigations include the set of measures and investigations taken by the judicial police in person or by the order and referral of the judicial authorities as well as the other qualified judicial authorities for procuring and providing of the proofs, including crime justification proofs and those useful for the culprit according to the principle of acquittal; the main goal is preparation of the file and facilitation and speeding of the trial in the court.

   The authors of the France's criminal trial procedure, as well, have offered two definitions:(bakhtiari.hossein.tarabijoseph1992.2010)

[1] Advising notion no.7/2516 by the legal office of judicature issued at 10/22/1995

A) The general meaning of the preliminary investigation includes searching and gathering of the elements for assisting the judge in his or her making of proper decision.

B) In narrow sense, the foresaid phrase embraces the investigations by the prosecutor based on his special authorities to which he is assigned by the law and entails the observation of numerous and strict formalities. The preliminary investigations begin as soon as the crime is discovered and aim at the procuring of all of the elements enabling the recognition of truth in the most explicit way possible.

the preliminary investigations include the set of interventions made by the special judicial authorities for crime discovery, proof gathering, preventing the culprit from escape or hiding and expressing ideas regarding the culprit's being suable or not (Zera'at and Mohajeri, 2001, p.45).

2) **Legal Definition:** no definition had been made of this phrase, i.e. preliminary investigation, in 1911's criminal trial procedure but the criminal trial procedure law, passed in 1999, has dedicated its article 19 thereto. Based on this article, "preliminary investigation includes the collection of measures taken for crime discovery and conservation of the effects and proofs of crime occurrence and suing of the culprit from the very beginning of legal indictment till submission to the judicial authorities" (Ansari, 2001, p.39).

By preliminary investigation in the foresaid article, preliminary investigations by the judicial police are intended especially because it has been stated in the chapter on the judicial law enforcers.

Chapter Four: Limits of the Preliminary Investigation

The framework of the preliminary investigations had been previously specified by article 306 of the criminal trial procedure law passed in 1911 and the later amendments. Based on the aforementioned law, performing of the preliminary investigations was not necessary for all of the crimes rather they were compulsory for criminal matters and optional for misdemeanors.

It was with the enactment of the law on the formation of the general and Islamic Revolution Courts in 1994 and elimination of the prosecutor houses that the preliminary investigations were carried out by the judicial police or the investigation judges following the referral by the head of the judicial domain or his deputy to the court's judges who were to eventually issue sentences about the culprits.

Now, the approval of an amendment to the aforementioned law, known as the law on the revitalization of the prosecutor houses and separation of suing and investigation from judgment, has led to the necessary performing of the preliminary investigations by the prosecutor houses except for some of the cases.

Moreover, based on paragraph A of article 3 in the foresaid law, the prosecutor houses are responsible for crime discovery, suing culprits, filing lawsuits in terms of the divine right aspect and preservation of the public rights and Islamic limits, enforcement of the verdicts and trying of the non-litigious affairs. But, as soon as getting aware of the crime occurrence and in the course of non-evident crimes, the judicial police informs the judicial authority of the case for further directions; as for the evident crimes, the judicial police takes all of the required measures for preserving the effects, instruments and tools and signs of the crime as well as for preventing the culprit from escape or collusion and carries out the preliminary investigations and immediately informs the judicial authority of the case's whereabouts in a report prepared within certain papers.

Chapter Five: Principles Governing the Preliminary Investigations

Paragraph One: Principle of Acquittal

Acquittal literally means being exempted from the flaws, slanders and becoming acquitted and relived of the liabilities and debts as well as being freed, released, saved, exempted, cleaned and liberated (Ashouri, 1996, p.25).

It is stated in law terminology that "every affair the ascribing of which to any person entails mercy or loss or deprivation of freedom or creation of restriction to him or her would be exempted in case of its being dubious

because it is not proper to impose hardship and difficulty to individuals without having decisive proofs" (Ansari, 2011, p.36).

From the perspective of the principles regarding the aforementioned expression, it can be stated that "principle of acquittal or the originality of innocence means belief in the non-liability in cases of the verdict's dubiousness. In other words, when no proof is found for a verdict of an issue after investigation, the principle in exiting dilemma would be non-liability and acquittal. From the perspective of the penal law, this principle includes assuming the culprits' innocence or the lack of accusation's attribution to them" (Lancrodi.1992).

As a subsequence to the acceptance of the principle of acquittal, certain effects come about and their observance guarantees the acceptance and enforcement of the principle of acquittal. In our ordinary regulations and for guaranteeing the enforcement of Act 38 of the constitution, rule 1 of chapter 1.1, there are numerous criteria stipulated and pointed out and the breach of them occasionally faces with criminal liability. These effects have been succinctly explained below:

1) Prohibition of detaining culprit for more than 24 hours without informing him or her of the accusation and issuance of legal writs (act 32 of the constitution, rule 1 and article 24 of the general trial procedure law in criminal affairs; paragraph 1)
2) Prohibition of summoning or arresting the culprit without any reason (article 124 of the general trial procedure law in criminal affairs, paragraph 1)
3) The necessity for informing the culprit of the accusation along with presentation of proof (article 129 of the general trial procedure law in criminal affairs, paragraph 1)
4) Prohibition of torturing and coercing the culprit for acquiring confession (article 578 of the civil law: paragraph 1 and act 28 of the law, rule:1, volume 11)
5) Prohibition of the culprit's deception and enticement as well as prohibition of the inductive questions (article 129 of the general trial procedures law in criminal affairs, paragraph 1)
6) The necessity of observing the culprit's defensive right such as the right to have a lawyer, a translator and so forth (articles 128 and 202 of the general and Islamic revolution courts' trial procedures law in criminal affairs)
7) Judge's impartiality in acquiring proofs and so forth (article 39 of the criminal trial procedure law)

Paragraph Two: the Principle of the Separation of the Sue, Investigation and Judgment Authorities' Duties

Historically, the principle of the judge's unity has been governing the government's judicial formations except in certain cases and during certain periods; it has been this same judge who sued the culprits, investigated and interrogated them and made judgments about them. In Islam, as well, the above principle is the governing maxim and, based on this belief, the former judicial authorities of the country changed the judicial system and enacted the law on the formation of the general and revolution courts with the purpose of trying and resolving all of the lawsuits and direct reference to the judge and creation of a single judicial authority (Akhondi, 1989, p.569).

Although the judge's unity system during the very early Islam Era cannot be objected in regard of the idea that the judgement position was tenured by the great apostle of Islam (may Allah bestow him and his sacred progeny the best of His regards) and immaculate Imams (peace be upon them) as well as due to the non-complexity of the claims and crimes in that period of time, the complexity of the today's crimes, non-observance of impartiality by some of the judges, misuse of the judgment chair by some elements of power and wealth as well as its misuse, influence of the political streams on the judges from long ago till present time in the majority of the countries, easier exertion of pressure or influence on a judge than on numerous judges leaves no room for defending this trial method and the scientists and scholars of law have repeatedly criticized this method of trial (Sane'ei, 1998, p.125).

It can be stated in regard of Iran that the Iranian legislator enacted the law on formation of the general and revolution courts in 1994 with the insistence of some of the then judicial authorities (and it resulted in

nothing except a heavy loss in the public treasury house and depletion of the judicial system of the competent and experienced forces) and it was with the elimination of the prosecuting houses and formation of the general courts that the judicial system and the principle of the separation of the suing officials' duties from those of the investigation and judgment officials sustained the heaviest blow to the extent that this system was subsequently recounted as ruined.

The result of the criticisms and the irreparable damages was the instigation of the judicial officials for revitalizing the prosecuting houses though it seems according to the officials' interviews and expression of ideas that the most substantial goal of the formation of the prosecuting houses and correction of the law on the formation of the general and revolution courts has been specialization of the courts and prevention of the density of the courts' tasks than the observation of the principle of the separation of the suing, investigating and trying officials' duties.

Conclusion:

According to the law, not only the convictions should be based on the legal orders and justice department's principles and regulations but the discovery and suing of the crimes as well as the arresting of the criminals and investigation and trying of their accusations should be also in adherence to the regulations and with the order and command of the justice department and based on the proper and logical relationship and interaction of the components and elements in the criminal process and any sort of the exertion of the personal taste and misuse of power and/or exertion of any type of violence and/or illegal detentions should be avoided.

The justice department's law enforcement agents are the executive arms of the justice department's system and play a considerable role in achieving the criminal justice and getting closer to an optimal and favorable criminal system to the maximum possible extent. It is based on this same reality that various criminal systems have made extensive efforts for systematization and legal controlling along with reinforcing the criminal trial procedure and other regulations via specifying the positions, the examples and the limits of the duties and authorities of the justice department's law enforcement officials.

According to the above-presented explanations regarding the history, philosophy and reasons of the emergence of the justice department's law enforces as well as the rile of them in the new law of the criminal trial procedures, it can be concluded that justice department's law enforcers are only appointed by the law and skillful and well-trained individuals are to be consequently selected as the justice department's law enforcement agents. The reason for the legislator's paying of attention to this subject is the sensitivity that exists in the formation of the criminal files. In the society that the law stipulates proportionate punishment for the criminals in every rank and position in respect to the crimes' intensity and weakness, the criminals' punishment and crime deterrence are concomitantly carried out. Public prosecutor holds the headship and supervision of the justice department's law enforcement officials in terms of the duties they are assigned to. All of the justice department's law enforcement officials are obliged to enforce the orders by the judicial authorities. The violators will be sued by the court and sentenced to temporary disconnection from government service from one month to six months and the court's verdict is decisive.

References

1. Afrasiabi, M., 1995, *General penal law*, Ferdowsi.
2. Akhondi, M., 1989, *Criminal trial procedure*, v.2, Ministry of Guidance Publications.
3. Amid, H., 2000, *Amid Persian Dictionary*, Amirkabir Publications.
4. Ansari, V., 2001, *Criminal investigation law*, Tehran.
5. Ansari, V., 2011, *Scientific discovery of crime*, Samt.

6. Ardabili, M., 2000, *General penal law*, Mizan.
7. Ashouri, M., 1996, Criminal trial procedure, v.1, Samt.
8. Baheri, M., (1992.2010), *Explanations on the general penal law*, University of Tehran Press.
9. Bakhtiari, H., & Torabi, Y., (2009), *Historical trend of police higher education in Iran till 1991*, Disciplinary and Police Sciences University Press.
10. Dehkhoda, A.A., (1992.2010), *Dehkhoda Dictionary*, v.3, University of Tehran Press.
11. Ensafpour, Gh. R., (1986), *Persian Dictionary*, Zavvar.
12. Ja'afari Langaroudi, M. J., (1992), *Terminology of law*, Ganj-e-Danesh Library Publications.
13. Khaleghi, A., (1999), *Criminal trial procedure*, Shahr-e-Danesh.
14. Sane'ei, P., (1998), *General penal law*, Ganj-e-Danesh Publications.
15. Zera'at & Mohajeri, (2001 and 2002), *Explication of the criminal trial procedures*, Fekrsazan.