

# The Role of Scientific Police in Substantiation Reasons of Claim based on Islamic Penal code

**Mohammad Reza Ebrahimi Nasab<sup>1</sup>, Iraj Goldouzian<sup>2\*</sup>, Mohammad Ali Imam Hadi<sup>3</sup>**

<sup>1</sup>Master of Criminal Law and Criminology, Department of Criminal Law, Electronic Branch, Islamic Azad University, Tehran, Iran

<sup>2</sup>Professor, Faculty Member, Tehran University, Tehran, Iran

<sup>3</sup>Associate professor, Faculty Member, Shahid Beheshti University of Medical Sciences, Tehran, Iran

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## ABSTRACT

**Objective:** In criminal law, we are dealing with two types of reasons. The legal reason which is categorized as the confession, martyrdom and etc. and the scientific reason which is used as a preparation tool by scientific police and examples such that. Therefore, the role of scientific police can be studied only through law. **Methodology:** Scientific police, who is defined as a structure, organization and method to prove the reason with its concept in discovery of crime system, can be treated as discovery of crime tool and for reason analysis in one situation and as substantiation reason within discovery of crime in another situation. **Results:** However, this research is a descriptive and analytical study which is based on the opinions of the lawyers and internal laws and regulations and the author has attempted to investigate the substantive articles of the approval substantiation reasons in the new Islamic Penal Code and also has investigated those effective matters in the Code of Criminal Procedure which have been taken into consideration in this direction. **Conclusion:** It should be stated that all the hypotheses of this research have been confirmed.

## 1. Introduction

The serious field of application of reasons for discovery of crime based on scientific approaches can be studied in two bases as first base including relevant specific problems to traditional reasons such as confession and martyrdom because they could not lead to enough assurance for judges and included many doubts, and second base including the weakness of information obtained from crime scene to determine the nature of criminal behavior and characteristics of involved persons in many of cases. This orientation toward scientific proofs led to creation of the knowledge of "scientific police" in which, the physical reasons of crime scene are used to detect the crime. According to the important and effective role of existing physical reasons in crime scene that are applicable tools for scientific police, it is required to investigate and keep crime scene, collect existing reasons and proofs of crime, and prevent from elimination of these reasons to prove the crime occurrence, identify the criminal and prove innocence of accused persons without any reason due to impossibility to deny or reject such reasons. The position of scientific police with conceptual range that includes countless options within discovery of crime process including expert, reasons, and judge science has a considerable degree in view of thinkers of criminal law scope so that it can be redefined as an institute and base within discovery of crime.

## 2. Materials and methods

### 2.1 Conceptuality in field of scientific police

\* Corresponding author: Iraj\_Goldouzian @nomail.com  
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This institute has indicated a new picture of itself with a net nature in community fields specially Law during current decades; hence, scientific police or scientific discovery of crime in general meaning and police force in specific meaning have been emerged in Iran.

### ***2.1.1 The concept of Examining Magistrate***

“Magistrate means provider, retentive and restraining of something that is permitted by judge to be restrained” (Dehkhoda, 1990). According to definition of legislature about examining magistrate in Article 28 of Iran’s Criminal Code adopted in 2013, “the examining magistrate is an agent will perform his duties under the supervision of the judge and can assign the judiciary officers to take some of the measurements and investigations such as discovery of crime, retention of effects, signs and reasons of crime occurrence, discovering and preventing from accused person’s escape, initial investigations, implementation of judiciary measurements, and notifying papers according to the regulations”. The legislature has mentioned the category of judiciary officers in Article 29 of new Code as follows:

- A- “General officers such as commanders, officers and noncommissioned officers of police force of Islamic Republic of Iran who have been trained.
- B- Specific officers such as authorities and agents who are considered as examining magistrate (judiciary officers) with assigned duties subjected to specific rules. These officers are chiefs, deputies, and agents of prisons responsible for relevant affairs to prisoners, agents of Ministry of Intelligence, Information Organization of Sepah, and Basij Resistance agents of Islamic Republic of Iran Sepah and other armed forces that some of duties of magistrates are delegated to them so that they are considered magistrates subjected to law”

### ***2.1.2 Police and specific approach toward it***

#### ***Scientific police***

Scientific police is the sub-branch of criminology including analysis of physical data and reasons or the same experimental science for discovery of crime. Hence, scientific police, who give the results of his investigations in field of the criminal action occurrence method and other relevant issues to judicial system, is based on knowledge and experience in frame of findings of mathematical and experimental sciences.

It should be mentioned about the emergence of scientific police in field of judicial life and use of it through substantiation reasons range that progress of sciences and technology in past centuries has revealed its effects on all fields such as tools for discovery of crime and proving. Martyrdom and confession gradually lose their definite validity especially in cases gained using torture, threat, reluctance and seduction so that accuracy of confession and martyrdom has been a question in some cases from the perspective of psychology science. Hence, the period of legal reasons is passed to reach to the period of judge conscientious convincing treated as awareness of judge knowledge. “In this period, scientific reasons gradually find a special position as far as martyrdom and confession are measured based on scientific reasons and a new science named discovery of crime is added to criminal science branches. In this regard, the more accept bale and scientific facilities are accessible for police and courts to discover and prove the crime parallel to development and progress in experimental sciences” (Sheikhnia, 1996).

#### ***Scientific experts of discovery of crime***

Expert advice is an investigation allowed by court in which, a qualified person named expert is responsible to recognize the right or to prepare its requirements so that the expert is asked to give the technical, scientific, and professional information to judge or analyze his opinion or perception of technical proofs, scientific and practical discoveries about discovery of crime. “These experts can scientifically express some options within different situations and majors of legal science” (Katouzian, 2009); on the other hand, experts in different majors of legal science can have different titles such as medical examiner, legal pharmacist, legal engineer, legal assessor, and other professionals.

### ***2.1.3 The concept of reason to proof and substantiation of the crime***

#### ***The literal concept of reason***

First, the purpose of reason phrase is recognized within the term of “substantiation reasons of claim”. It would be beneficial to identify the literal meaning of every subject to recognize phrase concept. “The root of reasons (Adele in Arabic) is reason (Dall in Arabic) meaning argument and reasons” (Moeen, 2003).

It can be literally stated, “Reason is a collection of implementable regulations to attain a crime in relation with external events or behavior of prosecuted person. The reason is an important factor within criminal affairs that an accused person is legally convinced of crime commitment when all imputable elements of crime are collected. In addition to quality of crime role, support of social order and guaranteeing the right of prosecuted accused is considered within criminal law” (Goldouzian, 2014). Therefore, reasons include legal instruments used by case parties to end the lawsuit in favor of them.

#### ***Substantiation reasons of claim in criminal offenses***

Substantiation reasons of claim include all instruments used in judicial authority for proving. According to the Article 166 of Iran’s Constitution, “court verdicts must be substantiated, and based on the articles of the law, and the principles that have determined the verdict”. According to the Article 318 of Criminal Code of Procedure approved in 2013, “substantiation reasons within criminal affairs include cases determined in Islamic penal Code. The formalities to investigate the reasons described in Article in this chapter (chapter two from third section)”. The part five of Islamic penal Code approved in 2013 includes substantiation reasons within criminal affairs. The chapter five of part five of Islamic penal Code approved in 2013 including substantiation reasons and legal affairs should be revised because the judge knowledge is independently assigned into the substantiation reasons within criminal affairs and approach of penal code contrary to civil affairs that has mentioned reasons generally interpreting judge knowledge in frame of judicial reasons.

“Criminal judge has a determining role in obtaining the reason. Although judges aim to discover the fact in legal cases, but the instrumental documents of parties are considered in practice to settle disputes” (Goldouzian, 2014). Therefore, the judge knowledge is considered as an important option within substantiation reasons of claim based on it in criminal cases, in addition to other existed options for reasons in legal affairs.

## ***2.2 Substantive reasons of and procedural rules dealing with scientific police***

### ***2.2.1 The relation between scientific police and substantive reasons for crime proving***

Every crime includes three legal, physical, and mental elements. All details of these elements should be proved by complainant or prosecution authority to condemn the accused based on the case. “The implemented rules in initial process of investigations can be considered inefficient through a traditional and reluctant attitude dealing with proving criminal case. Hence, police is not passive within substantiation reasons but is active and pioneer to enforce them” (Asadi Mehmandoost and Shokrian, 2013). However, the new doctrine about the position of substantiation reasons in substantive rules has categorized dealing method of different systems as follows: “many believe that proving regulations are procedural and procedural rules are dominant. Substantiation reasons of claim are used to prove the claimed right and its regulations usually have positive and procedural aspect not substantive and proving aspect. In other words, the relevant rules to substantiation reasons of claim are affirmative with procedural aspect. Some others assume that proof regulations have both substantive and procedural aspects. It means that although affirmative aspect of right is dominant, but it has a kind of substantive aspect; accordingly, they have studied ruling regulations on substantive principles of reasons within civil affairs in Civil Code and criminal affairs in Islamic Penal Code. Another group has considered reason regulations in accordance with their specific features in specific rule so that the substantive and procedural verdicts are presented in a special regulation in order not to hurt coherence of them due to their dispersion such as England Law, America Law, and Bayanat law in Syria” (Mansoorabadi, 2001). Although Iran’s system is apparently based on the second theory, but some jurists believe that a specific lesson under the title of “substantiation reasons of claim” in university separated from procedural law at least academically indicates the influence of the third method in Iran.

### ***2.2.2 The position of scientific police in discovery of crime in accordance with legal reasons***

The attention of police has been drawn to scientific discovery of crime more than traditional reasons during current centuries especially since the beginning of 21<sup>st</sup> century so that new devices have been invented to discover some secrets and complications of crimes especially murder. “It should be mentioned that some devices such as electronic microscopes for DNA system, patterns of fingerprints, blood, skin, hair, and so on as modern technologies used in scientific discovery of crime to prove the crime. Therefore, gathering of such reasons mad accused not to hide the fact and tell the truth when facing scientific reasons” (Asadi Mehmandoost and Shokrian, 2013).

It seems that substantiation reasons of crime have relevance aspect within crimes with divine right aspect such as punishments (Islamic Hadd). It means that it is not permitted to violate provided reasons and use other methods so that Islam considers some punishments in divine rights for crimes have proved through their specific methods not any other method. Therefore, identification of this accused can be effective in dealing with structure of police in general meaning and scientific police in specific meaning. This subject is especially traceable from the perspective of legislature. According to the law especially Code of Criminal Procedure approved in 2013, the principle is based on covered crime with closed court or be investigated directly in a court and covering the crime in proceeding in contumacy (Articles: Note 1 of Article 102, Article 306, Note of Article 351 of Code of Criminal Procedure). This covering-based approach of legislature applied in proceeding process has influenced on police and scientific discovery of crime limiting the authority and performance range of them.

However, the accuracy of Islamic legal system to create justice has brought some instruments with scientific approaches in addition to their history conquering against modern approaches.

### ***2.2.3 Procedural regulations and role of Scientific police in it***

“People should follow the law after it was signed by president and published so that the regulations are considered as life rules in community and people are forced to adjust their relationship based on the law” (Katouzian, 2007). Police is also to follow rules and regulations considered by law bounded to follow it after entry into force; therefore, the police will not be able to implement the considered duty if the law is not complete.

### ***Initial investigations and ruling scientific regulations on it within specific police methods***

Since preservation of public rights and private rights of plaintiff and defendant is important during the prosecution and investigation step, criminal legislatures have emphasized on performance of initial investigations by a qualified judicial authority and exceptionally allowed expert and trained judicial officers in some cases to conduct these investigations under the supervision of judicial authority. According to the Article 90 of Code of Criminal Procedure, “initial investigations includes legal proceedings conducted by examining magistrate or other judicial authorities to keep the effects, signs, to gather crime occurrence reasons, to identify accused and to prevent escape of accused”. Although the legislature has described initial investigations in this Article, but it is so dangerous to define these investigation as a collection of proceedings with undetermined limits when they are done by judicial officers especially who are not expert.

The first part of initial investigations that is gathering of reasons can be delegated by judicial authority to judicial officers. Of course, it would be better if judicial authority performs this duty but the task of gathering reasons might be entrusted to judicial officers in some cases while the second part of initial investigations including identification, and prevention form accused hiding or escaping is responsibility of judicial authority so that he has no right to delegate this duty to judicial officers because of explicitly of law in this case.

It is not possible to refer the issue to experts of scientific reason within all procedure steps either in initial investigations in trial or in prosecution step in court. This matter has been clearly specified in substantive and procedural criminal law while the law is silent in case of the possibility of inviting experts

by officers. According to Article 125 of Code of Criminal Procedure approved in 2013, it is possible for judicial officers to search the place and conduct local investigation ordered by examining magistrates because of the regulation of permission in something as permission in its attachments (Zeraat, 2004).

### ***From interrogation to case submission to the court***

Discovery of crime is the first and most important steps of criminal procedure process because the criminal justice cycle will not move and the criminal persons will not punished if there is not any detected crime. "On the other hand, lack of discovery of crime would lead to increase in crimes rate and criminal numbers causing dissatisfaction of society with performance of governmental authorities" (Mousavi Moghaddam, 2006).

One of the duties of judicial officers is to interrogate regarding detection and prosecution of crime. "Interrogation is an art and technique to design a set of technical and legal questions from accused person to crime commitment to gain correct information about criminal incidents" (Mehdipoor, 2007). In fact, interrogation has four aims as follows: access to valuable facts, acquittal or innocence proving, identifying the criminal, confession of accused. In addition to accused person, other persons related to the crime or accusation might be interrogated.

### ***Transition of traditional methods within discovery of crime and emergence of scientific police***

As there is not any society without rules and regulations, there is not any human society without any crime and all people respect ruling values and norms on society in accordance with sociology. "Success in personal and professional life of every person is related to his ability to reason emotional experiences and emotional problems as well as providing responses with adjusted methods toward results based on reasoning about past, present and future. Various researches have emphasized on the issue that it is not enough nowadays to rely only on public intelligence to achieve success and several types of scientific intelligences and controls are required to gain success" (Imam Hadi et al., 2009).

Substantiation reasons of claim of claim as one of the most important issues in criminal procedure, has considerably changed. Martyrdom and confession have had a basic and undeniable role to prove the crimes during the history especially in legal eras. Legal reasons were imposed to the judge in past so that he was forced to issue the verdict of accusation based on provided reasons. "In this regard, these sciences have been practically efficient in different scopes including discovery of human remains, personal identification and proof of those killed in the crimes of sexual violence (such as rape, forced pregnancy and sterilization) in the form of "lawful anthropology" in various cases" (Farokhi, 2011).

## **3. Discussion and results**

### ***3.1 Substantive reasons and procedural requirements in scientific police methods***

#### ***3.1.1 Formalities of relying on substantiation reasons within discovery of crime process by scientific police***

One of methods of discovery of crime process is access to reasons considered by legislature as substantiation reasons of crime written in substantive and procedural rules that makes it possible to access the ambiguous path. Some of these important formalities are as follows:

#### ***Substantive regulations in accordance with Islamic Penal Code***

The role of expert and scientific reasons can be observed in criminal justice system of Iran and different substantive and procedural regulations so that all of these reasons indicate the attention of legislature toward expert opinion and scientific substantiation reasons besides other classic reasons. According to the Note of Article 211 of Islamic Penal Code, the knowledge of judge and its credit conditions are mentioned as affirmative reason in criminal affairs. "The role of experts' opinions and application of scientific methods is confirmed as affirmative substantiation reasons in judicial procedure through studying verdicts of courts, Supreme Court branches and Supreme Disciplinary Court of judges. Establishment of legal medicine, development of identity determination of police force, increasing number of experts in different scopes and creation of higher education centers to train experts indicate the attention of judicial system toward this important matter so that there are 2 million and half expert opinions annually issued by legal medicine based on existing statistics and one third of judicial cases includes issued verdicts based on opinions of experts of legal medicine" (Sadeghi, 2014). Some of these procedures include relying on substantiation reasons of claim with substantive background have studied in Islamic Penal Code.

#### ***Procedural regulations in accordance with Code of Criminal Procedure***

Substantiation reason is one of the matters presented in field of criminal procedure. Although there are some common points between criminal and civil substantiation reasons, but criminal substantiation reasons have some unique features distinguishing it from civil substantiation reasons. The criminal substantiation reasons of case should be written by legislature in terms of its relation with crime, punishment and dealing with personal and social freedoms and rights of society individuals. The lack of these reasons is ambiguous within procedural rules especially in Procedure Code of General and Revolutionary Courts in terms of criminal affairs due to lack of attention of legislature toward the importance and position of reason within criminal affairs while the importance of a matter would make the legislature to write some regulations about it. Of course, the matter of substantiation reasons is mentioned in Articles 318-334 of new Code of Criminal Procedure and articles 129 and 130 of this Code explicitly introduces gathering of reasons and crime signs as duties of experts. In this regard, use of procedural rules of reasons is related to scientific police so that in some cases scientific police is considered as expert.

#### ***3.1.2 Condition of substantiation reasons of claim within discovery of crime process and the role of scientific police in it***

Substantiation reasons of criminal affairs are divided to two general categories. First, reasons of individual arguments in which, parties of the case are involved in process. Second, reasons that are emerged to prove the crime by a third party such as an expert.

### ***Reasons of individual arguments***

Some concepts such as confession and oath are included in this kind of substantiation reasons in which, one party is directly related to crime commitment.

#### ***Confession***

According to Article 171 of Islamic Penal Code, “if an accused confesses to commission of an offense, his/her confession shall be admissible and there is no need for further reason; unless according to the examination made by the trial judge, there is circumstantial and hearsay reason contrary to the confession, in which case the court shall make the required investigation and examination and stipulate the contrary circumstantial and hearsay reason in the judgment”. Accordingly, the regulations of this legal Article are contrary to common procedural methods in countries with developed law because of “respecting the confession”. It is obvious that the contents of Article 172 of this law, that has expressed some regulations about the validity or quality of one-time confession in all crimes (especially sentenced crimes) and the maximum level of numbers of confessions in some limited crimes (not discussed in this part), are contrary to the “principle of the judge conscientious convincing” due to mentioning no need for further reasons. Therefore, crediting the confession of accused person as definite reason to prove criminal crime might impose harmful results to accused person so that the accused person is forced to accept a punishment not coordinated with the reality if the verdict is one issued due to any legal reason and there would be harm for criminal justice within such approach. “It seems that the writers of the mentioned Article in Islamic Penal Code have considered a high-level credit for confession emphasizing on definite confession in legal case, criminal law and procedure while the accused person is not aware of consequences of his/her confession within a criminal affair” (Ismaeelian, 2013).

#### ***Oath***

“Oath is mentioning religious sanctities about a saying or any agreement to prove the accuracy of the saying or stability and authenticity of agreement has been common since past”

However, “defendant has to take an oath in order to deny the crime commitment against martyrdom of claimant. If defendant avoids from taking oath, the case will be against him and he has no right because avoiding from oath is usually equal to implied confession” (Goldouzian, 2014). If it is aimed to analyze the oath within criminal procedure, it should be mentioned that if oath is taken collectively not individually, its affirmative power increases called as “Qasamah” because oath has no effect on criminal substantiation reasons by its own. Qasamah as the substantiation reasons of claim is only related to violent crimes such as retaliation for manslaughter in premeditated murder and blood money in unintentional murder while Qasamah can only prove blood money in injuries even if they are intentional.

### ***The performed reasons by third party***

Third party is involved in some cases to discover the fact. The claimant might be in such situation as a part of process. Accordingly, such performance is described in frame of martyrdom, Qasamah, and judge knowledge.

#### ***Martyrdom***

Martyrdom is one of the traditional, important and identified reasons to prove criminal cases. Martyrdom had an extensive domain in past so that it was confirmed and authentic without any limitation. In fact, martyrdom was the base of criminal judgments.

Martyrdom is one of the reasons used within the process of criminal discovery and investigation as a tool for scientific police. “The martyrdom-based reason is considered as an important reason in Islamic law so that it will be considered as authentic and effective factor if martyrdom has Sharia’ conditions and validity; hence, the authentication of such martyrdom is so high that is acceptable as the reason to prove the crime” (Poormeidani, 1994). In other words, if there is not any doubt in accuracy of martyrdom in Islamic Law system and conditions are realized based on Sharia, martyrdom will be accepted as the reason to prove crime and realization of such legitimate martyrdom there is no need for further investigations and reasons; therefore, the judge will issue the punishment verdict. If the martyrdom is provided under compulsory, torture or threat, it will not be authentic and effective not leading to punishment. It is the duty of judge of the case to determine the accuracy of martyrdom.

#### ***Qasamah***

The concepts of judicial authority and judge have been applied in relevant topic to Qasamah within Islamic Penal Code. Therefore, the verdict is not issued subjected to law that Qasamah is only implementable by judge and some other reasons are required to prove the claim that implementation of Qasamah includes in rules of court. Meanwhile, incompetence of interrogator (as the only competence person to investigate the murder in trial) within implementation of Qasamah neither is based on rules nor there is a precedent vote, circular or even a theory from Legal Department of the Judiciary. In fact, Qasamah will be applicable to prove the crime if the judge is suspicion of murder (or injury) commitment by accused person so that the case will be instances of doubt and the retaliation for premeditated murder is proved based on the oath of 50 relatives men if claimant has not clear proof (Article 336 of Code of Criminal Procedure). The quorum for unpremeditated murder (that includes both quasi-intentional murder and simple mistake according to Iran’s Law) is equal to 25 men (Article 455 of Code of Criminal Procedure). Implementation of Qasamah based on obtained doubt has many regulations that are not the subject of this study so a summary of them was described to explain scientific police compared to Qasamah.

#### ***Knowledge of Judge***

Intentional murder is one of the severe crimes with severe punishment of death; hence, the judge should not limit himself to legal reasons to discover the fact and punish the murder but he should issue the verdict based on the obtained knowledge in accordance with common regulations and bases. According Islamic Penal Code approved in 2013, knowledge of judge is valid to prove all crimes. According to the Article 160 of this Code, “substantiation reasons are confession, martyrdom, Qasamah, and oath in the cases specified by law and knowledge of the judge”.

In majority of legal systems, judges have a broad range of authorities to discover the fact in claims and cases and this approach is based on the idea that judges are not passive audiences but they have duty to discover the fact. The Article 4 of Iran’s Constitution expresses that all civil, criminal, and other rules and regulations should be based on Islamic criteria; accordingly, legislature has mentioned knowledge of judge as substantiation reasons giving authority to the judge benefiting from his knowledge to prove the crime if he finds something about the case of murder.

### 3.1.3 Scientific police and its role in use of individual or third party reasons

The explainable and interpretable relationships between scientific police and substantiation reasons can be studied within reasons. It means that the nature of reasons is one side of the matter and methods to gather reasons another side of matter while both can complete each other. For instance, although domestic violence can be proved based on reasons such as confession, martyrdom, oath and other reasons, but experts should examine this important issue before any other measurement.

Sometimes, the relation between scientific police and confession can be examined under the quasi-judicial authorities of police. Some of these authorities include technical interrogations done by Information Department. It should be noticed that these authorities are used to prepare conditions of discovery of crime while they could not clear the fact not only in trial but also in court failing to take reasons in a transparent path. The rejected confessions in hearing session are not admissible; hence, conditions can be prepared for scientific police through a scientific method to achieve the goal considered in authorities of reasons gathering. One of these conditions is use of Lie detector systems.

Of course, noticing the quasi-judicial authority has an increasing corrupt sequence within totalitarian systems in which, the nature of police with its general meaning is equal to keeping the sovereignty power.

Martyrdom is one of the substantiation reasons that can solve some complexities of cases within proceeding process. It should be searched in process of challenging witnesses when the nature of martyrdom meets the specialized opinions of scientific police affecting each other. It is when there are presented reason even small reasons indicating the false martyrdom by the other party. In this case, challenging of witness is a new issue so that criminal justice system would better use its tools such as scientific police outside of the court to reach a correct result. Performance territory of scientific police includes broad ranges such as technical interrogations and examining and investigating the place and incident witnesses. Therefore, it can be claimed that the position of scientific police in martyrdom is to prove the justice based on jurisprudential meaning and fulfill the conditions of martyrdom. These conditions include not committing mortal sin and not urging to commit venial sin. Hence, some other solutions and tricks are required to determine the good faith of witness while these solutions are not in power, position and time territory of the judge. It is required to refer to scientific police and its instances in frame of expert work to determine the justice term in territory of law especially in field of substantiation reasons so that the best decision will be made.

This approach (use of quasi-judicial authorities) within the relations between scientific police and oath. Therefore, it should be mentioned that the direct relationship such as other reasons cannot be examined if we are about to study the relation between scientific police and oath because the situation of oath and Qasamah is found in court session. Therefore, the oath and Qasamah are emerged if the criminal case is investigating and preparing for vote issuance. However, the entrance of scientific police to the position of oath or Qasamah will be done if there is not a clear proof or confession for crime commitment by accused person. In this case, there is a doubt in the case in accordance with the law and attitude of Foghaha (jurists); therefore, scientific police will prove the doubt and analyze the signs given by doubt.

The closest reasons to the scientific police are reasons and knowledge of the judge that have specialized closeness to its implementation. The knowledge of the judge can be observed out of the trial with scientific police. Obviously, the judge not only is not able to be expert at any field but also need experts' opinions in every issue within procedure process in order to control the case. Therefore, the best option to solve complicated judicial mysteries is benefiting from scientific tools under the control of scientific police helping them with final decision at the time of ambiguity occurrence within proceeding process and increased complexities of the case for interrogator and prosecutor during discovery of crime process. The first step of investigation can be examined to study the position of scientific police in this field. It means that the judge has not enough expertise to identify and resolve the complicated issue during the first step of investigation and discovery of crime (for instance the case of murder) through scientific and technical investigations so that the judge needs a professional eye and ear to issue the vote. Hence, presence of an expert who is elite in the field of cases such as experts who work as scientific police and other active persons in judicial arena. However, the relationship between scientific and substantiation reasons of claim although is sometimes weak and sometimes strong but they can affect each other directly and indirectly. On the other hand, although lawyers are the wing of justice bird guiding by the judge, but the police with its general and specific concepts is another wing of this bird.

## 4. Conclusion

Some strategies such as establishment of specific research and scientific centers can be applied considering clear criteria in expert field and organizing new scopes of legal sciences in order to increase the growth and development as well as use of scientific approaches of substantiation reasons and discovery of crime within criminal proceedings and to be more close to fair trial principles. In this regard, prediction of a coherent and comprehensive plan in field of the authority range of scientific police and use of legal sciences' tools in frame of a specific rule will be appropriate. This issue can organize three bases as follows:

First, minimizing the lack of enforcement of votes and opinions of scientific police against dominance of judicial system in frame of practical approaches.

Second, scientific police can be considered as the organization or institute responsible for scientific discovery of crime besides other substantiation reasons.

Third, the ruling principles and regulations on scientific reasons and value of each of reasons in different crimes are considered as important factors.

The opinions and proceedings of scientific police can be accepted through paying attention to these three points. According to this attitude, prosecutors and judiciary members will have no excuses about ambiguity, use or access to these data and findings so that they should confirm the results from the gathered reasons in frame of affirmative new approaches. Finally, it can be stated that application of scientific and experimental facilities and tools have been common in current arena of criminal procedures in accordance with surprising progresses of human sciences and techniques especially in scope of scientific discovery of crime in order to discover the fact and gather substantiation reasons instead of using old methods.

### 3.1 Suggestions

According to the mentioned points, some suggestions are presented according to the results of this study:

- Lack of identification of explicit position of scientific police as one of the substantiation reasons and tool for scientific discovery of crime within criminal law is a clear gap. It should be mentioned that if this important issue is considered, we not only will have a principled police tending to detect the crime scientifically but also the attitude of law will be legal toward scientific reasons. For this purpose, the considerable gap (the comprehensive definition of scientific and its instances) between old and new rules that should be explained and mentioned in rules. Hence, it is suggested that legislature determines the structure of scientific police under the nature of identification of concepts of this field, determining its role in substantiation reasons within criminal affairs, determining performance scopes and other attempts under their specialty and in frame of legal Articles as a chapter in Law book.
- An existed subject as a gap in old rules and also in new Penal Code and Procedure Code is related to opinions and votes presented by scientific police in structure of experts of judiciary, legal medicine, etc. it should be explained that these opinions and votes have a consultative position so that the judge and criminal justice systems are not forced to accept these opinions. Some instances of corrupt succession include the increasing authority of judges and affected scientific opinions. The issue that judge conscientious convincing is a considerable issue is a kind of negative proposition because of its subject within this position and in accordance with various scientific advances and facilities. Hence, it would be better that legislature determines this issue in order to make this issue as a rule performing through a criteria. Therefore, it is suggested this enforcement and its features be considered by the legislature within a separate chapter or as an exception for Article 212 of Islamic Penal Code.

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