



UOT 343.985

DOI: <https://doi.org/10.62130/TAYN2331>**İsmayil AMİRLİ**

*The lecturer of the Criminalistics department  
at the Police Academy within the Ministry of Internal Affairs,  
police captain  
e-mail: emirliismayil@gmail.com*

## EVOLUTION OF CRIME SCENE INVESTIGATIONS IN ISLAMIC LAW

### SUMMARY

*The exploration of crime scene investigations in Islamic jurisprudence has revealed a rich history that resonates with modern practices. From the early Islamic era to contemporary times, the significance of thorough investigations, evidence preservation, and specialized knowledge has been evident. The reliance on specialized teams and expert opinions has been a hallmark of Islamic legal proceedings, emphasizing the importance of relying on scientific advancements and skilled professionals for a comprehensive understanding of legal disputes. Moreover, the integration of legal regulations into crime scene investigations, focusing on both technical methodologies and human rights considerations, underscores the need for a balanced approach that safeguards public security while upholding individual rights and privacy. The inclusion of female experts within investigation teams and the implementation of gender-specific protocols for preserving the sanctity of the deceased reflect the ongoing evolution of investigative practices in accordance with Islamic principles and contemporary legal frameworks*

**Keywords:** *evolution, crime scene investigation, islamic law, criminalistics*

### Introduction

In modern Arabic, while the terms 'masrahu'l-carîma' and 'masrahu'l-hadis' are preferred for the crime scene, 'makanu'l-hadis' and 'makanu'l-carîma' are also used. Especially in countries like America and England, terms like 'the crime scene' or 'the scene of crime' have become widespread.[7, s.24]

The 'crime scene' is defined in various ways, such as the place where the crime is committed, a dynamic area where the manner of committing the crime, the relationship between the victim and suspects, and where the perpetrator, victim, and witnesses are present simultaneously. It is described as the starting point of the criminal intent's manifestation in behavior, continuing with the direction of the perpetrator's escape, where the manner of committing the crime and the relationship between the victim and suspect can be

determined, and material evidence can be identified. In short, we can define the crime scene as 'the place where the crime is committed and evidence is found.' We believe that limiting the crime scene only to a location is not accurate. Particularly in internet crimes, it's not always possible to associate the crime scene with a physical place. Therefore, we considered the location where the evidence is found as an essential element of the crime scene.

"Crime scene investigation" is generally described as the process of investigating any traces, signs, or evidence that can serve as evidence at the scene of an incident using scientific and technical methods, including the determination, documentation, collection, preservation, and submission of findings to relevant authorities. Additionally, it has been described as:

Crime scene investigation is the forensic exa-



mination and evidence collection process carried out by authorized units using various scientific, technical methods, and procedures to clearly define the relationship between the perpetrator, crime scene, and victim in a lawful manner.[11, s.24]

Crime scene investigation is a discipline applying scientific principles to forensic incidents, assisting in elucidating crimes.

One of the terms associated with the crime scene is 'discovery.' There has been a debate about whether discovery constitutes crime scene investigation. Most argue that discovery involves a re-examination of the crime scene by the court panel during the prosecution phase.

Considered as a subfield of criminalistics, the primary purpose of crime scene investigation is to collect evidence related to the incident, determining where, how, when, by whom, and against whom the crime was committed. Additionally, it includes efforts to establish whether the incident was a crime or an accident, the realization of the elements of the crime, the proof of guilt or innocence, documentation, and recording, as well as activities aimed at determining the relationship between the perpetrator and the victim.

The crime scene may not be confined to a single location. Depending on the type of crime, its nature, and the number of offenders, the crime scene can vary. In fact, with the complexity of the incident, the number of crime scenes may increase. An incident can start in one place and conclude in another. Technological advancements have also influenced the perception of the crime scene. Debates surrounding the identification of the crime scene in internet crimes are a result of this perception. In some cases, the location where the evidence is obtained may not be the actual crime scene. For instance, a victim might be killed in one place and buried in another. Taking all these possibilities into account, some researchers categorize the crime scene into primary and secondary categories. The place where the crime is committed is referred to as the primary crime scene, while the location where the suspect was present before or after the commission of the crime is defined as the secondary crime scene. The crime scene can be a very small or a very

large area and can be open or enclosed spaces.

#### **Assignment of the Crime Scene Investigation Team and Transfer to the Scene of Incident:**

In some cases, a judge can conduct all stages of an investigation themselves. However, it's not possible for judiciary members to be experts in every matter they encounter during proceedings. Therefore, when a matter exceeds a judge's knowledge and requires expertise, they are obligated to seek assistance from an expert witness. The crime scene investigation team is responsible for systematically investigating, identifying, documenting, scientifically collecting, and examining material evidence that could be present at the scene of an incident. Their goal is to find evidence that will determine the relationship between the crime scene, the perpetrator, the victim, and the time of the incident. Ensuring mastery of the stages related to the crime and securing the crime scene, apprehending the perpetrator, aiding the injured, interviewing witnesses, preserving and protecting evidence from deterioration require the immediate intervention of the team at the crime scene. In today's context, crime scene investigation teams consist of individuals specialized in different fields. These experts mostly comprise police or gendarmerie specialized teams. The team, comprised of various roles such as photographers, sketch artists, evidence searchers, and collectors, operates with a division of labor among them. Throughout their work, they utilize various tools such as dictaphones, cameras, and sketches.

Different types of crimes like theft, murder, arson, explosions, and terrorist incidents may require distinct evaluations. Just as it's observed in modern law, the necessity for judges in Islamic law to seek support from experts has been debated. Often, it's considered discretionary for judges, but at times, it's deemed obligatory.[7]

In Islamic law, examples related to the appointment of crime scene investigation teams and their intervention at the scene can be listed as follows: When a few individuals from the Uraynah tribe arrived in Medina to embrace Islam and fell ill due to the climate, Prophet Muhammad sug-



gested that they could recover if they benefitted from the Zakat animals grazing outside the city. After following the Prophet's advice and recovering, the Uraynah individuals later encountered and murdered the shepherd of those Zakat animals while leaving the city. Informed about the situation, Prophet Muhammad assigned a team of twenty individuals, along with the qadi, to identify the culprits. In this incident, the qadi and those assigned to examine the crime scene and intervene can be regarded as expert individuals.[3]

Similarly, during the time of Prophet Muhammad and the four caliphs, both methods were employed in Islamic procedural law. Some examples of crime scene investigations during that period include:

a) In cases of theft where the prescribed punishment (hudud) can be imposed, one condition is that the stolen property reaches a certain value (nisab). If the judge knows the material value of the stolen property, they can decide whether to impose the hudud punishment. However, it's not feasible for a judge to know the value of every item stolen and determine whether it reaches the nisab. In such instances, seeking assistance from an expert witness is necessary. For instance, during the era of Caliph Uthman, after determining with the help of an expert whether a stolen food item reached the nisab, the hudud punishment was implemented. This example highlights the significance of relying on the knowledge of expert teams in executing punishments.

b) Both Caliph Umar and Caliph Uthman personally resolved land disputes between Beni Mahzun and Ebu Sufyan, and between Ali and Talha ibn Abdullah, respectively, by physically inspecting the disputed areas. This demonstrates their reliance on on-site investigations in resolving disputes.[8, s.45-46]

#### **Ensuring the Security of the Crime Scene:**

Negligence in maintaining the security of a crime scene can adversely affect the course of an investigation. In addition to weather conditions, errors by the victim, suspect, press members, curious crowds, and personnel from the crime scene investigation team can lead to the distortion or loss of evidence at the crime scene. Besides hu-

man factors, the two most critical elements affecting the reliability of evidence in crime scene investigations are the environment and time. Both environmental factors and time can cause alterations to the original state of evidence or even its complete disappearance. This change can occur in biological evidence as well as some physical evidence. For example, bloodstains at the crime scene, whether in an enclosed or open area, dry over time and change color. Similarly, due to environmental effects, a bullet or an empty cartridge may lose its evidentiary value. Touching an object at the crime scene may damage fingerprints, and walking on a soft surface can disturb footprints.

The precautions taken to ensure the security of a crime scene may vary based on the nature of the crime and the characteristics of the scene itself. Measures taken in enclosed crime scenes differ from those in open or wet areas. In open areas, more stringent precautions might be necessary to prevent climate and environmental conditions from disturbing evidence compared to enclosed areas. Crime scene security is ensured by specialized experts utilizing technical equipment and devices. Presently, crime scenes are protected by tape barriers, barricades, or security forces, depending on the type of crime. This prevents unauthorized individuals from entering the scene. Subsequently, the original state of the crime scene is documented through photography, videos, and cameras. This process is crucial both for analyzing the crime scene and recalling the incident.

Modern practices have standardized the means of securing a crime scene. Wearing attire like smocks, gloves, and shoe covers is among these principles to safeguard both the investigator and the evidence at the crime scene. Otherwise, unintentionally, an investigator might cause damage to some evidence. For example, special protective footwear should be worn to avoid disturbing the suspect's shoe prints or mingling other shoe prints at the crime scene, and furniture at the scene should not be used.

Another crucial aspect that crime scene investigation teams should pay attention to is taking health and safety precautions. Especially in terrorist incidents, fires, or radioactive gas leaks, such



measures should not be overlooked. Ensuring the safety of life and property for the accused, victim, and other individuals is also part of crime scene security.[4, s.98]

### **Collection and Analysis of Evidence at the Crime Scene:**

Evidence collected at crime scenes is presently categorized into two groups: technical and biological evidence. Biological evidence comprises fingerprints, blood, semen, hair, saliva, skin particles, nails, while technical evidence includes items such as clothing, footwear and tire impressions, bullets, glove marks, camera footage, and audio recordings. In the past, crime scene investigations were arbitrary, but today, they are systematized by regulations, adhering to principles such as refraining from touching or moving any item at the crime scene until it is recorded in its original state and preserving the scene without alteration until documentation is complete. While the principles for evidence collection remain consistent, the techniques for gathering evidence at the crime scene vary based on the type of incident and the nature of the evidence. Employing the same method for collecting evidence in every case may sometimes be inadequate or problematic.[3, s.167]

One of the critical tasks of crime scene experts is to analyze the evidence obtained, enabling a comprehensive crime scene analysis. Indeed, there are numerous applications related to the collection and analysis of evidence at the crime scene from the time of Prophet Muhammad, his companions, the successors, and legal scholars up to the present day, emphasizing the importance of this process.

In modern legal systems, the earliest examples of crime scene investigation can be traced back to Islamic criminal law in the concept of "kasame." The decision on whether to resort to "kasame" and the determination of compensation, whether to be paid by the state or the relatives, were based on the conclusions drawn from the investigation conducted at the crime scene.[5, s.23]

In this regard, jurists of the time endeavored to determine whether a deceased person found at the crime scene had fallen victim to murder or died from natural causes, depending on the available means of that era. For instance, efforts were

made to ascertain the cause of death based on the exit points of blood from the body. Among Hanafi jurists, blood exiting from the mouth, nose, anus, or genitals was construed as a natural death, while its exit from the eyes or ears was deemed indicative of murder. This interpretation stemmed from the understanding that blood could naturally exit from places like the mouth, nose, anus, or genitals due to reasons such as vomiting or nosebleeds, occurring without external intervention. However, some jurists argued that not every instance of a bloody death, particularly in cases of suicide, should be automatically considered murder. Consequently, they contended that determining the cause of death solely based on blood exiting from the mouth, nose, or anus might not be conclusive, as individuals could be killed by means such as strangulation or a direct blow to the heart, causing death without blood exiting from these bodily areas.

### **Preservation of Evidence:**

One of the consensus points among today's legal experts in crime scene investigations is the necessity to legally preserve data believed to belong to the victim or the suspect. This is because evidence collected from the crime scene, if not preserved, may not be admissible as proof in court, even if it is informative. Evidence collected at the crime scene must be preserved using different methods based on their physical, chemical, and biological characteristics. Hence, legal regulations have been developed to establish different protection methods according to the contents of the evidence. In this regard, in our country, the 'Directive No. 722 dated 05.12.2009 of the Ministry of Interior on the collection, investigation, and presentation of important evidence for crime investigations' has been approved by the Minister of Internal Affairs of the Republic of Azerbaijan.[1]

This directive sets forth principles that crime scene investigation teams must adhere to when collecting, packaging, and transporting evidence. It is also considered within the scope of evidence preservation in crime scene investigations that samples taken from suspects, defendants, or other individuals should not be mixed. The fact that during the time of Hz. Ali, the statements of wit-





nesses were recorded by a scribe demonstrates the documentation and preservation of actions during investigations even in that period.

Although not termed as such, examples of crime scene investigation in today's sense can be found both in the Qur'an and in the Sunnah. In Islamic criminal law, crime scene investigation has constituted one of the most crucial steps in legal investigations, encompassing aspects such as the permission of the authorized authority, the establishment of investigation teams, evidence analysis, and preservation, from the era of the Companions of the Prophet to the present day. In Islamic jurisprudence regarding evidence, the limited reliance on the personal knowledge of judges necessitated the use of specialized knowledge and skills of crime scene investigation teams. Advances in science and medicine further accentuated the significance of these teams. While adjudication in Islamic law was primarily carried out by judges, similar to contemporary times, experts known as "ahlu'l-elm" and "ahlu'l-hibra" were consulted due to their specialized knowledge and skills for resolving legal disputes and providing necessary assessments and evaluations in court. These individuals constituted the earliest examples of crime scene investigation teams. In the systematic structure of Islamic evidential law, the evidence collected at the crime scene relies on secondary indications. It would be unfair to deem the evaluations of jurists on these indications as unjust, as there was insufficient evidence supporting the notion that the indications, often considered as circumstantial evidence, were weaker than eyewitness testimony or confessions. However, in today's context, evidence obtained from crime scenes, due to its reliability and reproducibility, has sometimes surpassed the traditional means of proof under certain conditions. Present-day crime

scene investigations are conducted under various legal regulations. Regulations encompassing the collection, preservation, transportation, and analysis of evidence have been formulated to delineate the working procedures of crime scene investigations comprehensively. Some regulations are based on technical methods while others are related to human rights. These principles, particularly those concerning technical aspects, can be applied similarly in Islamic law, as adherence to them is necessary for ensuring the security of investigations. However, especially in the realm of human rights, the structure of Islamic law necessitates additional regulations to be implemented. For instance: Crime scene investigations should be conducted within the framework of principles that safeguard the sanctity of life, property, and honor, which are the main objectives of Islamic law. Privacy, confidentiality of private life, and avoiding intrusion must be maintained. All efforts must be made while preserving the balance between public security and human rights.[9, s.24]

The crime scene investigation team should comprise experts who are conscious of their duties, possess a sense of justice, and display ethical conduct. It is imperative to include female members in the team. Otherwise, the credibility of the investigation might be questioned. Except in necessary situations, the rules that regulate interactions between men and women in normal life should also be observed during the investigation process. In this context, just as in the case of a living woman, access to the body of a deceased woman at the crime scene by a strange man should be prohibited. Respect for bodily privacy should be upheld, and whenever possible, procedures involving evidence collection like autopsies, body examinations, or sample collections should be performed by female experts.

#### İstifadə edilmiş ədəbiyyat:

1. "Cinayət təqibi üzrə əhəmiyyət kəsb edən dəlillərin qablaşdırılması, tədqiqata təqdim olunması və təhvil verilməsi barədə Qaydaların təsdiq edilməsinə dair" DİN-in 05.12.2009-cu il tarixli 722 nömrəli Əmri
2. M.Məlikova, E. Nəbiyev, «Xarici ölkələrin dövlət və hüquq tarixi», Bakı, 2000.
3. Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century" by Rudolph Peters and Peri Bearman 27 march 2006 published.
4. "The General Principles of Criminal Evidence in Islamic Jurisprudence From Islamic Criminal Justice



System, P 109-123, 1982, M Cherif Bassiouni, ed. - See NCJ-87479.

5. "Introduction to Islamic Law" by Jonathan A.C. Brown 27 October 1983 published.

6. Özkan, Gültekin, "Olay Yeri İncelemesinde Uygulamada Karşılaşılan Sorunlar ve Çözüm Önerileri", TAAD,

7. Alauddin Selmânî, Devru's-şurtati'l-ilmiiyye fi isbati'l-cerime, Câmîatü Muhammed Haydar, Biskra, 2014.

8. İslam hukuku. Hayrettin Karaman. İstanbul, 2000.

9. Türk-hukuk tarihi. 4-cü nəşr. Akif Aydın. İstanbul, 2001.

10. Ahmed b. Dahilullah er-Raddâdi, Muâyenetü mesrahi'l-cerîme, Merkezü'l-Arabi li'd-dirasati'l-emiyye ve't-tedrib, Riyad, Beru, Mesrahu'l-cerîme, ; Yusuf, "Mehumu masrahi'l-hâdis".

11. Oğuz Polat, Kriminoloji ve Kriminalistik Üzerine Notlar, Seçkin Yayınları, Ankara, 2015.

**İsmayıl ƏMİRLİ**

Daxili İşlər Nazirliyi Polis Akademiyasının  
"Kriminalistika" kafedrasının müəllimi

## İSLAM HÜQUQUNDA HADİSƏ YERİNƏ BAXIŞIN TƏKAMÜLÜ

### XÜLASƏ

İslam hüququnun tətbiqinin əsas qaydaları ixtisaslaşmış ekspert və mütəxəssislərin rəylərinə söykənmək, hüquqi mübahisələri tam obyektiv həll etmək üçün müasir elmin nailiyyətlərdən və ixtisaslı ekspertlərin biliklərindən istifadə etməkdir. Bundan əlavə, cinayətlərin istintaqı zamanı hüquqi bazaların inteqrasiyası və qarşılıqlı əlaqəsi, həm müasir texniki metodologiyalara, həm də insan hüquq və azadlıqlarının qorunması məsələlərinə diqqət yetirməklə, fərdin hüquqlarına və şəxsi həyatın toxunulmazlığına hörmətlə yanaşılmaqla ictimai təhlükəsizliyi təmin edən balanslaşdırılmış yanaşmanın zəruriliyini vurğulayır. Hadisə yerinə baxış keçirən əməliyyat-istintaq qruplarına mütləq qadın ekspertlərin daxil edilməsi və mərhumun şəxsi toxunulmazlığının qorunub saxlanması üçün cinslə bağlı xüsusi protokolların həyata keçirilməsi İslam prinsiplərinə və müasir qanunvericilik bazalarına uyğun olaraq istintaq təcrübəsində əks olunması tövsiyə olunur.

**Açar sözlər:** hadisə yerinə baxış, islam hüququ, kriminalistika, təkamül

**Исмаил АМИРЛИ**

Преподаватель кафедры криминалистики  
Академии полиции МВД.

## ЭВОЛЮЦИЯ РАССЛЕДОВАНИЙ ПРЕСТУПНЫХ СЦЕН В ИСЛАМСКОМ ПРАВЕ

### РЕЗЮМЕ

Исследование расследований преступных сцен в исламской юриспруденции показало богатую историю, созвучную с современными практиками. От раннего исламского периода до современных времен проявляется значимость тщательных расследований, сохранения доказательств и специализированных знаний. Надежда на специализированные команды и экспертные мнения стала основополагающей чертой исламских юридических процедур, подчеркивая важность использования научных достижений и квалифицированных специалистов для полного понимания юридических споров. Более того, интеграция правовых норм в расследования преступных сцен, фокусирующаяся как на технических методологиях, так и на учете прав человека, подчеркивает необходимость сбалансированного подхода, который обеспечивает общественную безопасность, соблюдая при этом индивидуальные права и конфиденциальность. Включение женских экспертов в команды расследования и реализация гендерно-специфических протоколов для сохранения неприкосновенности умерших отражают непрерывное развитие практики расследований в соответствии с исламскими принципами и современными юридическими рамками.

**Ключевые слова:** эволюция, расследование места преступления, исламское право, криминалистика